

# Exhibit A

**In the Matter Of:**  
**SOCIAL MEDIA CASES**  
**JCCP5255**

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**MOTION**

February 17, 2023

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SOCIAL MEDIA CASES  
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 12

HON. CAROLYN B. KUHL, JUDGE

COORDINATION PROCEEDINGS )  
SPECIAL TITLE (RULE 3.550) ) JCCP NO. 5255  
SOCIAL MEDIA CASES )  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 17, 2023

APPEARANCES:

FOR PLAINTIFFS:

KIESEL LAW  
BY: PAUL R. KIESEL  
BY: MARIANA A. MCCONNELL  
BY: CHERISSE H. CLEOFÉ  
8648 WILSHIRE BLVD.  
BEVERLY HILLS, CA 90211

PANISH SHEA BOYLE RAVIPUDI  
BY: BRIAN PANISH  
300 S. 4TH STREET, #710  
LAS VEGAS, CA 89101

BEASLEY ALLEN  
BY: JOSEPH VANZANDT  
BY: JENNIFER EMMEL  
218 COMMERCE STREET  
MONTGOMERY, AL 36103

FOR DEFENDANTS:

COVINGTON BURLING  
BY: PAUL W. SCHMIDT  
620 EIGHTH AVENUE  
NEW YORK, NY 10018

GAIL PEEPLES, CSR NO. 11458  
PRO TEMPORE OFFICIAL REPORTER

SOCIAL MEDIA CASES  
JCCP5255, 02/17/2023

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1 APPEARANCES, CONT.

2 FOR PLAINTIFFS: PANISH SHEA BOYLE RAVIPUDI  
3 BY: RAHUL RAVIPUDI  
4 BY: JESSE CREED  
11111 SANTA MONICA BLVD., #700  
LOS ANGELES, CA 90025

5 LIEFF CABRASER HEIMANN BERNSTEIN  
6 BY: LEXI HAZAM  
7 BY: KELLY MCNABB

8 SCHNEIDER WALLACE COTTRELL KONECKY  
9 BY: AMY ESKIN  
2000 POWELL STREET, #1400  
EMERYVILLE, CA 94608

10 SOCIAL MEDIA VICTIMS LAW CENTER  
11 BY: LAURA MARQUEZ GARRETT  
12 BY: MATTHEW P. BERGMAN  
821 SECOND AVE., #2100  
SEATTLE, WA 98104

13 SEEGER WEISS  
14 BY: CHRISTOPHER L. AYERS  
55 CHALLENGER ROAD  
15 RIDGEFIELD PARK, NJ 07660

16 MOTLEY RICE  
17 BY: MATHEW P. JASINSKI  
20 CHURCH STREET, 17TH FLR.  
HARTFORD, CT 06103

18 CASEY GERRY  
19 BY: FREDERICK SCHENK  
110 LAUREL STREET  
20 SAN DIEGO, CA 92101

21 THE CARLSON FIRM  
22 BY: RUTH RIZKALLA  
1500 ROSECRANS AVE., #500  
MANHATTAN BEACH, CA 90266

23 LANIER LAW FIRM  
24 BY: RACHEL LANIER  
2829 TOWNSGATE RD., #100  
25 WESTLAKE VILLAGE, CA 91361

26 MARGOT CUTTER

27 (ADDITIONAL APPEARANCES VIA LA COURTCALL. SEE COURT  
28 FILE.)

SOCIAL MEDIA CASES  
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1 APPEARANCES, CONT.

2 FOR DEFENDANTS: FAEGRE DRINKER  
3 BY: TARIFA B. LADDON  
4 11766 WILSHIRE BLVD., #750  
5 LOS ANGELES, CA 90025

6 WILSON SONSINI  
7 BY: CHRISTOPHER CHIOU  
8 633 WEST FIFTH STREET, #1550  
9 LOS ANGELES, CA 90071

10 MUNGER TOLLES OLSON  
11 BY: JONATHAN H. BLAVIN  
12 560 MISSION STREET, 27TH FLR.  
13 SAN FRANCISCO, CA 94105

14 MUNGER TOLLES OLSON  
15 BY: VICTORIA A. DEGTAREVA  
16 350 S. GRAND AVENUE, 50TH FLR.  
17 LOS ANGELES, CA 90071

18 KING & SPALDING  
19 BY: GEOFFREY M. DRAKE  
20 1180 PEACHTREE STREET, N.E.  
21 ATLANTA, GA 30309

22 KING & SPALDING  
23 BY: MATTHEW BLASCHKE  
24 50 CALIFORNIA STREET  
25 SAN FRANCISCO, CA 94115  
26  
27  
28

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MOTION

INDEX FOR FEBRUARY 17, 2023

VOLUME N/A

M A S T E R I N D E X

CHRONOLOGICAL INDEX OF WITNESSES

WITNESS

DIRECT

CROSS

REDIRECT

RECROSS

(NONE)

ALPHABETICAL INDEX OF WITNESSES

WITNESS

DIRECT

CROSS

REDIRECT

RECROSS

(NONE)

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MOTION

INDEX FOR FEBRUARY 17, 2023

VOLUME N/A

M A S T E R I N D E X

EXHIBITS

WITHDRAWN/

PLAINTIFF'S

FOR I.D. IN EVD.

REJECTED

(NONE)

WITHDRAWN/

DEFENDANT'S

FOR I.D. IN EVD.

REJECTED

(NONE)

SOCIAL MEDIA CASES  
JCCP5255, 02/17/2023

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MOTION  
Page 1

1 CASE NUMBER: JCCP 5255  
2 CASE NAME: SOCIAL MEDIA CASES  
3 LOS ANGELES, CALIFORNIA FEBRUARY 17, 2023  
4 DEPARTMENT 12 HON. CAROLYN B. KUHL, JUDGE  
5 REPORTER: GAIL PEEPLES, CSR NO. 11458  
6 TIME: P.M. PROCEEDINGS  
7 APPEARANCES: (AS PREVIOUSLY NOTED.)  
8

9 THE COURT: GOOD AFTERNOON, EVERYONE.

10 THIS IS THE BIGGEST GROUP SINCE THE  
11 PANDEMIC. IT'S WONDERFUL TO SEE ALL OF YOU.

12 OKAY. THIS IS OBVIOUSLY THE JCCP SOCIAL  
13 MEDIA CASES.

14 WE HAVE A COURT REPORTER; I WILL SIGN THE  
15 COURT REPORTER'S ORDER.

16 AND I WILL TAKE APPEARANCES IN THE  
17 COURTROOM STARTING ON PLAINTIFFS' SIDE.

18 MR. VANZANDT: YOUR HONOR, JOSEPH VANZANDT FROM  
19 BEASLEY ALLEN LAW FIRM.

20 AND I HAVE A PHV APPLICATION PENDING THAT  
21 HAS NOT BEEN APPROVED, SO, I WANTED --

22 THE COURT: ALL OF YOU WHO HAVE PENDING PRO HAC  
23 VICES, I WILL HEAR FROM ALL OF YOU. AT THE END WE WILL  
24 TALK ABOUT TRYING TO SPEED THAT PROCESS ALONG.

25 GO AHEAD.

26 MR. RAVIPUDI: GOOD AFTERNOON. RAHUL RAVIPUDI  
27 FROM PANISH SHEA BOYLE RAVIPUDI --

28 THE COURT: EVERYBODY, IF YOU WOULD SPEAK INTO THE



1 MICROPHONE BECAUSE THAT'S THE WAY PEOPLE ONLINE WILL  
2 HEAR.

3 I'M SORRY, PEOPLE ON COURTCONNECT, I FORGOT  
4 TO UNMUTE MY VIDEO. NOW IT'S UNMUTED. YOU CAN SEE ME.

5 MR. PANISH.

6 MR. PANISH: GOOD AFTERNOON, YOUR HONOR. BRIAN  
7 PANISH FOR THE PLAINTIFFS.

8 MR. BERGMAN: GOOD AFTERNOON, YOUR HONOR. MATTHEW  
9 BERGMAN, SOCIAL MEDIA VICTIMS LAW CENTER, FOR THE  
10 PLAINTIFFS.

11 MR. KIESEL: YOUR HONOR, PAUL KIESEL FOR THE  
12 PLAINTIFFS AS WELL.

13 THE COURT: OKAY. I'M GLAD TO HEAR APPEARANCES  
14 FROM ANYBODY ELSE. I MEAN, WE HAVE YOUR CARDS. BUT,  
15 ANYBODY WANTS TO STATE YOUR APPEARANCE, VERY GLAD TO HEAR  
16 FROM YOU.

17 MS. MCCONNELL: GOOD AFTERNOON, YOUR HONOR.  
18 MARIANA MCCONNELL FROM KIESEL LAW.

19 MS. GARRETT: GOOD AFTERNOON, YOUR HONOR. LAURA  
20 MARQUEZ GARRETT FROM SOCIAL MEDIA VICTIMS LAW CENTER.

21 THE COURT: ANYBODY ELSE APPEAR AT THIS POINT?

22 MS. HAZAM: GOOD AFTERNOON, YOUR HONOR. LEXI  
23 HAZAM OF LIEFF CABRASER HEIMANN BERNSTEIN FOR THE  
24 PLAINTIFFS.

25 THE COURT: AND YOU CAN USE THE MIDDLE AS WELL.

26 MS. MCNABB: GOOD AFTERNOON, YOUR HONOR. KELLY  
27 MCNABB FOR THE PLAINTIFFS.

28 MS. ESKIN: GOOD AFTERNOON, YOUR HONOR. AMY ESKIN

1 OF SCHNEIDER WALLACE COTTRELL KONECKY FOR PLAINTIFF.

2 THE COURT: OKAY. WE HAVE EVERYBODY ELSE'S  
3 APPEARANCES.

4 I'LL HEAR FROM DEFENDANTS THEN.

5 MS. SIMONSEN: GOOD AFTERNOON, YOUR HONOR. ASHLEY  
6 SIMONSEN OF COVINGTON BURLING FOR THE META DEFENDANTS.

7 MR. SCHMIDT: GOOD AFTERNOON, YOUR HONOR. PAUL  
8 SCHMIDT OF COVINGTON BURLING FOR THE META DEFENDANTS.

9 MR. CHIOU: GOOD AFTERNOON, YOUR HONOR.  
10 CHRISTOPHER CHIOU WITH WILSON SONSINI FOR GOOGLE,  
11 ALPHABET, AND YOUTUBE.

12 MS. LADDON: GOOD AFTERNOON, YOUR HONOR. TARIFA  
13 LADDON WITH FAEGRE DRINKER FOR TIKTOK AND BYTEDANCE.

14 MR. BLAVIN: GOOD AFTERNOON, YOUR HONOR. JONATHAN  
15 BLAVIN FROM MUNGER TOLLES FOR DEFENDANTS SNAP.

16 MR. BLASCHKE: GOOD AFTERNOON, YOUR HONOR.  
17 MATTHEW BLASCHKE WITH KING & SPALDING FOR TIKTOK AND  
18 BYTEDANCE.

19 AND I AM JOINED BY MY COLLEAGUE JEFF DRAKE,  
20 WHO HAS A PRO HAC APPLICATION.

21 MR. DRAKE: GOOD AFTERNOON, YOUR HONOR.

22 MS. DEGTAREVA: GOOD AFTERNOON, YOUR HONOR.  
23 VICTORIA DEGTAREVA FROM MUNGER TOLLES & OLSON ALSO ON  
24 BEHALF THE DEFENDANT SNAP.

25 THE COURT: OKAY. I KNOW THAT EVERYBODY ONLINE  
26 HAS GIVEN YOUR APPEARANCES TO THE CLERK, AND SO, I'M NOT  
27 GOING TO HAVE EVERYBODY REPEAT THEM BECAUSE SOMETIMES  
28 IT'S HARD TO DO THAT ALL IN ORDER. PEOPLE IN THE

1 COURTROOM KNOW YOU'RE THERE BECAUSE YOU HAVE STATED YOUR  
2 APPEARANCES IN FRONT OF THEM.

3 COUPLE OF HINTS. IF YOU CAN'T HEAR FOLKS  
4 AT ANY POINT, BE SURE TO SPEAK UP. IF YOU'RE TRYING TO  
5 SPEAK UP AND YOU FEEL LIKE WE'RE NOT HEARING YOU, THERE  
6 MAY BE A TECHNICAL ISSUE. PUT SOMETHING IN THE CHAT.  
7 THAT'S A WAY TO REACH OUT AND SAY SOMETHING'S GOING WRONG  
8 TECHNICALLY.

9 AND IF YOU'RE HAVING TROUBLE WITH BEING ON  
10 MUTE --

11 WHAT IS IT, MISS MIRO?

12 STAR 6. OKAY.

13 ALL RIGHT. THOSE ARE THE PRELIMINARIES.

14 YOU CAN BE SEATED UNLESS YOU'RE ADDRESSING  
15 THE COURT. REMEMBER TO USE THE MICROPHONES.

16 AND FIRST OF ALL, I WANT TO COMPLIMENT  
17 EVERYONE ON YOUR -- ON THE REPORT, THE VERY FINE REPORT,  
18 YOU PROVIDED ABOUT THE ORGANIZATION. THAT WAS VERY GOOD.  
19 AND YOU APPEAR TO BE IN A REASONABLY CIVIL AND  
20 CONSTRUCTIVE MODE IN DEALING WITH EACH OTHER ON  
21 PROCEDURAL ISSUES, AND THE COURT APPRECIATES THAT.

22 FOR THOSE OF YOU WHO HAVE NOT BEEN IN OUR  
23 COMPLEX COURTS OR MAYBE HAVEN'T BEEN HERE VERY OFTEN,  
24 JUST LET ME GIVE YOU A BIT OF AN INTRODUCTION.

25 WE HAVE -- WE HAVE GOALS IN OUR COMPLEX  
26 COURT PROGRAM. THEY ARE IN CALIFORNIA RULE OF COURT  
27 3.400. AND THEY ARE, NUMBER ONE, TO MOVE CASES TO  
28 RESOLUTION; NUMBER TWO, TO REDUCE LITIGATION COSTS TO THE

1 EXTENT POSSIBLE FOR THE PARTIES; AND NUMBER THREE, TO  
2 IMPROVE THE QUALITY OF DECISIONMAKING FOR COUNSEL FOR THE  
3 CLIENTS, FOR JURIES ULTIMATELY, AND FOR THE COURT.

4 SO, THAT LAST ONE IS A LITTLE BIT NEBULOUS,  
5 BUT IT MEANS TO ME THAT I AM ALWAYS TRYING TO CREATE AN  
6 EVEN PROCEDURAL PLAYING FIELD SO THAT EVERYBODY CAN MAKE  
7 THEIR BEST ARGUMENTS ON THE MERITS. OKAY?

8 AND IN TRYING TO REDUCE LITIGATION COSTS,  
9 WE TRY TO GET AS SOON -- AS QUICKLY AS POSSIBLE TO CORE  
10 FACTUAL ISSUES AND CORE LEGAL ISSUES. AND THAT, IN  
11 GENERAL, WILL FURTHER EARLY RESOLUTION OF CASES.

12 SO, YOU KNOW, THE MDL JUDGES DON'T DO IT  
13 VERY DIFFERENTLY. BUT, WE APPLY THOSE PRINCIPLES SORT OF  
14 ACROSS THE BOARD IN WHAT WE DO IN OUR COMPLEX PROGRAM.

15 WE ALSO, SPECIFIC TO OUR CALIFORNIA COURTS,  
16 HAVE ETHICAL REQUIREMENTS TO MAKE DISCLOSURES IN  
17 SITUATIONS THAT DO NOT REQUIRE RECUSAL BUT THAT MAY BE  
18 THINGS THAT COUNSEL WISH TO KNOW ABOUT THE COURT'S  
19 RELATIONSHIPS WITH OTHERS WHO ARE INVOLVED IN LITIGATION.

20 SO, I HAVE KIND OF A LIST HERE. MOST OF  
21 YOU WHO -- MOST OF YOU WILL KNOW, WHO LOOK THINGS UP,  
22 THAT I WAS A PARTNER AT MUNGER TOLLES & OLSON 27 YEARS  
23 AGO. UNBELIEVABLE. 27 YEARS AGO. AT THAT TIME MISS  
24 KRISTIN LINSLEY, WHO'S BEEN ON THE PAPERS, WAS MY  
25 PARTNER.

26 GIBSON DUNN & CRUTCHER WAS MY HUSBAND'S LAW  
27 FIRM 24 YEARS AGO.

28 I HAVE BEEN INVOLVED IN BAR ACTIVITIES WITH

1 A NUMBER OF THE PLAINTIFFS' COUNSEL IN THESE CASES:  
2 MR. KIESEL WITH LA COUNTY BAR ASSOCIATION; MR. CONNIFF,  
3 WHOSE NAME I SAW ON THE PAPERS, ALTHOUGH I DON'T KNOW IF  
4 HE'S ON, IS -- I WAS ACTIVE WITH HIM IN THE AMERICAN LAW  
5 INSTITUTE AGGREGATE LITIGATION PROJECT. AND HE WAS JUST  
6 ELECTED TO THE COUNCIL OF THE AMERICAN LAW INSTITUTE.

7 MISS HASAM'S PARTNER MISS CABRASER WAS PART  
8 OF THE AMERICAN LAW INSTITUTE COUNCIL AND THE FEDERAL  
9 RULES STANDING COMMITTEE.

10 MR. PANISH WAS LEAD COUNSEL IN SOCIAL GAS  
11 CASES, WHICH ARE APPROACHING RESOLUTION, WITH MANY  
12 COMPLICATED ISSUES SURROUNDING THE SETTLEMENT, AS WELL AS  
13 MR. CREED, WHO MADE A LARGE CONTRIBUTION TO ORGANIZING  
14 THINGS.

15 AND MR. CREED CAME FROM MUNGER TOLLES AND  
16 OLSON TOO ALTHOUGH NOT WHEN I WAS THERE.

17 AND I ALSO SERVED WITH JUDGE GONZALES  
18 ROGERS ON THE COUNCIL OF AMERICAN LAW INSTITUTE, SO, I  
19 CONSIDER HER A FRIEND.

20 I MAY BE MISSING SOME CONNECTIONS, BUT  
21 THOSE ARE THE PRINCIPLE ONES. SO, JUST SO YOU KNOW.

22 SO, WE'LL START MORE OR LESS IN THE ORDER  
23 THAT YOU HAVE THINGS IN THE REPORT, ALTHOUGH I'LL GO OUT  
24 OF ORDER A LITTLE BIT AT SOME POINTS.

25 SO, YOU HAVE GOT A PROPOSED ADD-ON ORDER  
26 THAT IS EXHIBIT B.

27 AND ON MY REVIEW OF IT, IT LOOKS AS THOUGH  
28 THESE ARE CASES THAT HAVE NOT YET BEEN COORDINATED. I

1 ISSUED AN ORDER LAST FRIDAY WHERE I TRIED TO KIND OF  
2 CLEAN THINGS UP AND TAKE EVERYTHING THAT I KNEW OF.

3 SO, IF YOU COULD JUST KIND OF CONFIRM FOR  
4 ME THAT THOSE ARE IN FACT CASES THAT WERE NOT IN MY ORDER  
5 FROM LAST WEEK.

6 MR. KIESEL: JESSE CREED WILL TAKE THAT ON.

7 MR. CREED: THIS IS JESSE CREED.

8 SORRY I COULDN'T BE IN THE COURTROOM THIS  
9 AFTERNOON.

10 THOSE CASES ARE NOT ON THE LIST THAT YOU  
11 INCLUDED.

12 AND THERE ARE TWO BLANKS FOR CASE NUMBERS  
13 ON PAGE 3 OF THE PROPOSED ORDER. I -- I'M SURE AT THIS  
14 POINT WE PROBABLY HAVE THOSE CASE NUMBERS, SO, WE CAN  
15 SEND THOSE TO YOUR STAFF IF YOU WOULD LIKE.

16 THE COURT: WELL, PRESUMABLY -- YOU ALSO HOPEFULLY  
17 INCLUDED THE FACT IN THE DRAFT ORDER OF PRESENTING A HARD  
18 COPY -- LODGING A HARD COPY WITHIN THREE DAYS. SO,  
19 PRESUMABLY THERE WILL BE A CASE NUMBER BY THEN.

20 I WAS SAYING TO MY STAFF THE COURT DOESN'T  
21 ISSUE CASE NUMBERS WHEN YOU FILE A CASE. BUT, I GUESS WE  
22 HAVE A COUPLE.

23 OKAY. SO, I WILL SIGN THE ORDERS THAT SAID  
24 EXHIBIT B TO ADD ON THOSE CASES.

25 WITH REGARD TO ADDITIONAL CASES, DO YOU --  
26 DO PLAINTIFF'S COUNSEL HAVE ANY  
27 QUANTIFICATION OR TIME FRAME ON THOSE?

28 MS. KIESEL: YOUR HONOR, PAUL KIESEL.

1 THE ANTICIPATION IS THERE WILL BE A  
2 SIGNIFICANT NUMBER OF ADDITIONAL CASES COMING ONLINE.  
3 HAVING A PROCESS TO BRING THEM INTO THIS COURT, WE'D LIKE  
4 TO TALK TO YOU ABOUT WHETHER YOU WANT DIRECT FILING OR  
5 HAVE IT FILED IN THE COUNTY WHICH IT WOULD OTHERWISE BE  
6 FILED AND HAVE IT TRANSFERRED DOWN.

7 I DON'T KNOW THE COURT'S THOUGHTS ON THOSE.  
8 BUT, THERE WILL CERTAINLY BE --

9 THE COURT: WHAT DO YOU MEAN BY SIGNIFICANT  
10 NUMBER, MR. KIESEL?

11 MR. KIESEL: FAIR ENOUGH, YOUR HONOR.

12 I MEAN, I THINK IF YOU LOOK AT THE STATUS  
13 CONFERENCE REPORT, IT GAVE YOU THE TOTAL NUMBER OF CASES  
14 ACROSS THE COUNTRY. IT'S 183 CASES; BUT, THE NUMBER OF  
15 FOLKS INVOLVED IS OBVIOUSLY SUBSTANTIALLY LARGER THAN  
16 THAT.

17 SO, MY EXPECTATION IS THAT THAT NUMBER WILL  
18 BE DOUBLED, IF NOT MORE THAN THAT, IN THE FORESEEABLE  
19 FUTURE. A LOT WILL DEPEND, OF COURSE, WHAT HAPPENS IN  
20 THE FUTURE. BUT, I THINK THAT WE CAN ANTICIPATE A LARGER  
21 NUMBER OF CASES THAN WE CURRENTLY HAVE IN THE JCCP  
22 CURRENTLY.

23 THE COURT: FOR NOW THE WAY I LIKE TO ADD CASES ON  
24 IS THROUGH STATUS CONFERENCE REPORTS. OKAY?

25 SO, IF YOU WOULD -- AS THEY ARE FILED -- AS  
26 THEY ARE FILED IN LA, THEY LIKELY -- IF THE COMPLEX BOX  
27 IS CHECKED, THEY WILL FIND THEIR WAY HERE.

28 IF THEY'RE FILED IN OTHER COURT -- IN OTHER

1 COURTS -- AND THEY SHOULD BE FILED IN THE COUNTY WHERE  
2 VENUE IS PROPER -- THEY -- YOU ALL WILL KNOW ABOUT THEM  
3 AND WILL -- YOU WILL MENTION THEM IN STATUS REPORTS AND  
4 WE'LL ADD THEM ON THAT WAY.

5 IF THAT MAKES SENSE.

6 MR. KIESEL: THAT'S PERFECT. WE'LL WORK WITH  
7 DEFENSE COUNSEL, WHO LIKELY WILL HAVE FIRST NOTICE OF  
8 SOME OF THOSE FILINGS, AND WE WILL PREPARE A REPORT FOR  
9 THE COURT AT EACH STATUS CONFERENCE.

10 IF THERE IS A LAWYER THAT DOESN'T KNOW  
11 ABOUT THE JCCP AND THEY FILE IN AN ALTERNATIVE COUNTY, WE  
12 WILL REACH OUT TO THEM AND BRING IT BEFORE THE COURT.

13 THE COURT: ALL RIGHT. THAT'S FINE.

14 THERE IS AN ALTERNATIVE PATH WHICH I THINK  
15 WOULD BE MORE TROUBLE FOR YOU ALL, BUT WE CAN TALK ABOUT  
16 THAT NEXT TIME. OKAY?

17 SOUNDS GOOD.

18 SO, I NOTED THAT YOU DID NOT OBJECT TO MY  
19 COMMUNICATING WITH JUDGE GONZALES ROGERS, SO, I WILL  
20 THEREFORE FEEL FREE TO DO THAT. SHE DID SEND ME SOME OF  
21 HER EARLY ORDERS, SO, I HAVE THOSE. I WILL REFER TO  
22 THOSE A LITTLE BIT LATER.

23 I AM SIGNING -- OR WILL SIGN THE ORDER FOR  
24 SERVICE VIA CASEANYWHERE AND SERVICE AND FILING BY  
25 CASEANYWHERE.

26 SO, FOR THOSE WHO ARE NOT FAMILIAR,  
27 CASEANYWHERE HAS A MESSAGE BOARD FEATURE ON IT. AND IN  
28 OUR COMPLEX COURTS, WE ALLOW AND ENCOURAGE COUNSEL TO



1 CONTACT THE COURT IF IT IS SOMETHING SIMPLE. OR DOWN THE  
2 LINE -- WE'LL TALK MORE ABOUT IT. BUT, IF THERE IS A  
3 DISAGREEMENT THAT MIGHT LEAD TO A MOTION BEING FILED, WE  
4 WANT COUNSEL TO LET US KNOW IN SHORT POSTINGS.

5 BUT, EACH SIDE HAS TO PARTICIPATE. AT  
6 LEAST PLAINTIFFS AND DEFENDANTS HAVE TO PARTICIPATE SO  
7 THAT WE DON'T HAVE A SERIES OF HE SAID/SHE SAID POSTINGS  
8 GOING BACK AND FORTH. SO, YOU DON'T HAVE TO AGREE, BUT  
9 EACH SIDE HAS TO SAY WHAT THEIR POSITION IS. OKAY?

10 SO, THAT'S THE WAY TO USE THE BOARD.

11 AND IT'S GREAT FOR CONTINUING DATES AND  
12 VARIOUS THINGS LIKE THAT.

13 REGARDING PROTECTIVE ORDER, I AM HAPPY FOR  
14 COUNSEL TO -- COUNSEL HERE TO COORDINATE WITH COUNSEL IN  
15 THE MDL TO COME UP WITH A PROTECTIVE ORDER.

16 I WILL ADD, HOWEVER, THAT FOR THE  
17 PROTECTIVE ORDER THAT IS APPLICABLE IN STATE COURT IT  
18 MUST INCLUDE A REFERENCE TO CALIFORNIA RULE OF COURT  
19 2.550, WHICH GOVERNS DOCUMENTS THAT ARE FILED UNDER SEAL  
20 WITH THE COURT.

21 WE HAVE RATHER STRICTER RULES THAN THE  
22 FEDERAL COURTS DO WITH REGARD TO THINGS THAT GET FILED IN  
23 THE COURT. AND, SO, I WILL REQUIRE THAT THE PROTECTIVE  
24 ORDER THAT GOVERNS THIS CASE HAVE PARAGRAPHS IN IT THAT  
25 REFER TO THOSE RULES AND THAT WILL SAY THAT COUNSEL WILL  
26 FOLLOW THOSE RULES.

27 FOR YOUR REFERENCE, THERE IS ON THE LA  
28 SUPERIOR COURT COMPLEX COURT'S WEBSITE TWO FORM

1 PROTECTIVE ORDERS THAT WE RECOMMEND. THEY WERE DRAFTED  
2 BY A COMMITTEE OF ONE OF OUR FORMER JUDGES TOGETHER WITH  
3 A COMMITTEE OF COUNSEL ON BOTH SIDES OF THE V. THERE ARE  
4 TWO DIFFERENT TYPES. AND MANY, MANY TIMES IT IS  
5 SUFFICIENT.

6 YOU HAVE GOT SOME SPECIAL ISSUES HERE, SO,  
7 IT MAY NOT BE TOTALLY SUFFICIENT. BUT, AT LEAST WITH  
8 REGARD TO THE CALIFORNIA RULE OF COURT 2.500, ET SEQ.,  
9 ISSUES YOU SHOULD BE ABLE TO TAKE THOSE PARAGRAPHS OUT  
10 AND USE IT.

11 OKAY SO FAR?

12 ALL RIGHT. HERE IS AN ISSUE THAT I DID NOT  
13 RAISE IN THE ORDER SETTING UP THIS INITIAL STATUS  
14 CONFERENCE. AND IT HAS TO DO WITH DOE PARTIES.

15 NOW, WE DON'T HAVE DOE PARTIES IN THESE  
16 CASES, BUT WE HAVE PARTIES THAT ARE IDENTIFIED BY  
17 INITIALS. SO, THEY ARE PSEUDOMONAS IF YOU PLEASE.

18 THERE IS A REALLY RECENT CALIFORNIA COURT  
19 OF APPEAL CASE THAT REQUIRES THE COURT TO GRANT  
20 PERMISSION TO PROCEED UNDER PSEUDONYM. I AM GLAD TO  
21 ORDER THAT PLAINTIFFS WHO ARE MINORS CAN PROCEED UNDER  
22 PSEUDONYMS GIVEN THE ALLEGATIONS HERE ABOUT  
23 MENTAL/EMOTIONAL HEALTH.

24 BUT, WHAT I WOULD LIKE LEADERSHIP COUNSEL  
25 TO DO IS TO PRESENT AN APPROPRIATE ORDER FOR MY SIGNATURE  
26 SO I CAN JUST HAVE A BLANKET RULE ON THAT AND WE WON'T  
27 HAVE TO WORRY ABOUT IT.

28 THE APPELLATE CASE TALKS ABOUT THE SORT OF,

1 YOU KNOW, PUBLIC POLICY ISSUES ABOUT TRANSPARENCY OF  
2 COURT PROCEEDINGS. SO, I FELT LIKE I NEEDED TO RAISE  
3 THAT SUA SPONTE IF YOU WILL.

4 THEN ALSO -- I SAW JUDGE GONZALES ROGERS  
5 WANTED THIS AS WELL.

6 I WANT A SPREADSHEET OF ALL THE CASES. AND  
7 THAT SHOULD HAVE THE LEGAL NAME OF EACH PARTY ON IT AND  
8 ORGANIZED BY CASE NUMBER. IF IT'S AN EXCEL SPREADSHEET,  
9 THAT WILL BE GREAT BECAUSE IT CAN BE SORTED DIFFERENT  
10 WAYS.

11 BUT, ESSENTIALLY, THE CASE NUMBER, THE  
12 COUNSEL, THE -- THE LEGAL NAMES OF THE PARTIES, AND  
13 THE -- WHICH DEFENDANTS ARE SUED. AND ANYTHING ELSE THAT  
14 YOU -- YOU KNOW, LEAVE SOME BLOCKS. WE MAY HAVE SOME  
15 THINGS DOWN THE LINE. THAT WILL BE HELPFUL.

16 BUT, IF YOU WILL START PREPARING THAT.

17 AND THAT WILL GET -- THAT SHOULD BE  
18 PREPARED BY LIAISON COUNSEL ON PLAINTIFFS' SIDE. IT  
19 SHOULD BE SERVED ON THE DEFENDANTS BUT SUBJECT TO THE  
20 PROTECTIVE ORDER. SO, WE'LL NEED THE PROTECTIVE ORDER  
21 FIRST BEFORE YOU DO THAT. AND THEN -- AND THEN LODGED  
22 UNDER SEAL WITH THE COURT.

23 SO, MY STAFF KEEPS TRACK OF THOSE.

24 MISS MIRO?

25 COURTROOM ASSISTANT: AND EMAIL PLEASE.

26 THE COURT: E-MAIL IT TO MISS MIRO.

27 OKAY. LET'S TALK ABOUT THE PLEADINGS A  
28 MINUTE.

1                   AND BECAUSE -- PRETTY OBVIOUSLY IF WE'RE  
2                   GOING TO HAVE A MASTER COMPLAINT AND INDIVIDUAL JOINDERS  
3                   WE'RE GOING TO NEED TO HAVE THAT ACCOMPLISHED BEFORE WE  
4                   CAN MOVE FORWARD WITH PLEADING CHALLENGES.

5                   BUT, EVERYBODY IS OKAY WITH THE CONCEPT OF  
6                   A MASTER COMPLAINT ON THE PLAINTIFFS' SIDE?

7                   MR. VANZANDT: JOSEPH VANZANDT.

8                   YES, YOUR HONOR.

9                   THE COURT: SO, JUDGE GONZALES ROGERS ORDERED  
10                  MASTER COMPLAINTS BE FILED BY FEBRUARY 14 IN THE MDL.

11                  DID THAT HAPPEN?

12                  MR. VANZANDT: YES, YOUR HONOR. THAT HAPPENED.

13                  THE COURT: GOOD.

14                  WERE THERE ANY PROBLEMS WITH THAT THAT WE  
15                  SHOULD TAKE INTO ACCOUNT HERE?

16                  MR. VANZANDT: NOT FROM PLAINTIFFS' PERSPECTIVE.

17                  THE COURT: OKAY.

18                  MS. SCHMIDT: PAUL SCHMIDT FOR META.

19                  FROM THE DEFENSE PERSPECTIVE, WE ARE  
20                  CURRENTLY LOOKING AT HOW THE COMPLAINT TRACKS TO THE  
21                  MOTION PRACTICE. WE'RE GOING TO HAVE -- ON THE COMPLAINT  
22                  WE HAVE GOT ANOTHER CASE MANAGEMENT CONFERENCE WITH JUDGE  
23                  GONZALES ROGERS ON THE 3RD THAT WE WILL BE WORKING SOME  
24                  OF THOSE QUESTIONS OUT IN TERMS OF LIMITATIONS AND HOW  
25                  SHE SET UP THE PLEADING PROCESS.

26                  BUT, IN TERMS OF THE COMPLAINT ITSELF, WE  
27                  HAVEN'T RAISED ISSUES. WE'RE NOW IN THE SHORT FORM  
28                  COMPLAINT PROCESS.

1 THE COURT: SO, YOU KNOW WHAT WOULD BE HELPFUL?  
2 IF ONE SIDE OR THE OTHER WOULD TAKE ON THE DUTY OF  
3 POSTING ON CASEANYWHERE ANYTHING THAT COMES OUT OF JUDGE  
4 GONZALES ROGERS' COURT.

5 WHAT DO I MEAN BY THAT? YOU'RE LOOKING AT  
6 ME, AND I SHOULD BE MORE SPECIFIC.

7 HER ORDERS. HER ORDERS. AND IN THIS  
8 INSTANCE I WOULD LOVE TO SEE THE MASTER COMPLAINT. THAT  
9 WOULD BE HELPFUL TO ME. AS IT CURRENTLY EXISTS.

10 MR. KIESEL: QUICK POINT.

11 I THINK WE'RE GOING BACK TO THE LAST ISSUE  
12 OF THE EXCEL SPREADSHEET UNDER SEAL.

13 WHEN YOU SAY UNDER SEAL, YOU WANT THE LEGAL  
14 NAME OF THE MINOR TO BE FILED; NOT THE INITIALS, BUT THE  
15 LEGAL NAMES? THAT'S UNDER SEAL --

16 THE COURT: CORRECT --

17 MR. KIESEL: -- BECAUSE OTHERWISE IT'S A PUBLIC  
18 DOCUMENT.

19 THE COURT: OF COURSE.

20 MR. KIESEL: UNDERSTOOD.

21 THE COURT: AND THAT'S WHY -- YOU KNOW, DEFENDANT  
22 GETS IT. BUT, IT'S UNDER SEAL FOR THAT REASON.

23 MR. SCHMIDT: PAUL SMITH AGAIN FOR META.

24 JUST ON THE POINT ABOUT THE MASTER  
25 COMPLAINT AND GETTING THAT TO YOUR HONOR, THERE WAS A  
26 PUBLIC VERSION FILED ON THE RECORD THAT HAS A LARGE  
27 NUMBER OF REDACTIONS. WE ARE CURRENTLY WORKING THROUGH  
28 PROTECTIVE ORDER ISSUES IN THE MDL. WOULD YOUR HONOR

1 LIKE THAT VERSION? DO YOU WANT US TO HOLD OFF UNTIL WE  
2 HAVE A PROTECTIVE ORDER --

3 THE COURT: DEPENDS ON HOW YOU FEEL ABOUT  
4 CASEANYWHERE.

5 WE HAVE OFTEN USED CASEANYWHERE AS A PLACE  
6 WHERE THE PARTIES FEEL COMFORTABLE POSTING UNREDACTED  
7 VERSIONS WHICH WOULD NOT EVER GO IN THE COURT FILE.

8 MR. SCHMIDT: I THINK FROM THE DEFENSE PERSPECTIVE  
9 WE WOULD PREFER TO ONLY PUT THE REDACTED VERSION ON  
10 CASEANYWHERE UNTIL WE SORT OUT SOME PROTECTIVE ORDER  
11 ISSUES IF THAT'S ACCEPTABLE TO THE COURT.

12 BUT, IF NOT, THEN WE'LL OBVIOUSLY COMPLY  
13 WITH WHAT'S BEST FOR THE COURT.

14 THE COURT: SO, BRING IT IN AND LODGE IT IN HARD  
15 COPY THEN. OKAY?

16 MR. KIESEL: AND YOUR HONOR, JUST FOLLOWING UP,  
17 THE MDL IS PREPARED TO OFFER THE COURT AN EMAIL DIRECT OF  
18 THE NON-REDACTED VERSION OF THE COMPLAINT IF THE COURT  
19 WANTS TO HAVE THAT.

20 THE COURT: THAT'S FINE.

21 OR YOU CAN BRING IT IN HARD COPY. YOU CAN  
22 USE CASEANYWHERE TO LET ME KNOW WHAT'S COMING IN AND HOW.  
23 OKAY? THAT WILL BE GOOD.

24 ALL RIGHT. THANK YOU.

25 SO -- AND DID YOU DO A FORM -- I THINK  
26 MAYBE THE SCHEDULE WAS SUCH THAT YOU DON'T HAVE A FORMAT  
27 FOR THE INDIVIDUAL JOINDERS.

28 IS THAT CORRECT?

1 MISS HAZAM, GO AHEAD.

2 MS. HAZAM: IF I MAY, YOUR HONOR, LEXI HAZAM OF  
3 LIEFF CABRASER FOR PLAINTIFFS.

4 WE HAVE PROPOSED A FORMAT FOR A SHORT FORM  
5 COMPLAINT TO DEFENDANTS, AND THE MEET AND CONFER PROCESS  
6 REGARDING IT HAS BEGUN. WE EITHER NEED TO SUBMIT AN  
7 AGREED UPON FORMAT OR OUR REMAINING DISPUTES BY FEBRUARY  
8 28 TO JUDGE GONZALES ROGERS.

9 THE COURT: OKAY. WHILE WE'RE TALKING ABOUT  
10 THIS -- AND I KNOW YOU'RE INVOLVED IN THE MDL -- WAS  
11 THERE ANY KIND OF CONFERRING PROCESS WITH REGARD TO THE  
12 MASTER COMPLAINT BETWEEN DEFENDANTS AND PLAINTIFFS?

13 MS. HAZAM: CONFERRING PROCESS REGARDING THE  
14 CONTENT OF IT?

15 OR WHAT KIND OF A CONFERRING PROCESS ARE  
16 YOU REFERRING TO, YOUR HONOR?

17 THE COURT: BECAUSE ORDINARILY WHAT WE HAVE DONE  
18 HERE WITH MASTER COMPLAINTS IS THAT PLAINTIFFS WILL SHOW  
19 A DRAFT TO THE DEFENDANTS AND LISTEN TO THEIR PROBLEMS  
20 WITH IT.

21 NOW, WE KNOW THAT WE GOT BIG PROBLEMS;  
22 RIGHT? 230 AND THOSE BIG PROBLEMS.

23 BUT OTHER THINGS THAT THEY MIGHT HAVE THAT  
24 IF PLAINTIFFS KNOW AHEAD OF TIME THEY MIGHT WISH TO PLEAD  
25 AROUND THE PROBLEM TO SORT OF, YOU KNOW, DIMINISH  
26 PROBLEMS.

27 NO OBLIGATION TO DO THAT; BUT THAT'S WHAT  
28 I'M USED TO I GUESS.

1 SO, DID YOU DO THAT THERE OR NO?

2 MS. HAZAM: THANK YOU FOR THE CLARIFICATION, YOUR  
3 HONOR.

4 WE DID NOT MEET AND CONFER BEFOREHAND ABOUT  
5 ANY PLEADING PROBLEMS. THEY WERE IDENTIFIED AT SOME  
6 LENGTH BY BOTH SIDES IN STATUS CONFERENCE STATEMENTS --  
7 IN OTHER WORDS, ANTICIPATED MOTIONS AND GROUNDS FOR  
8 THEM -- IN A MANNER SOMEWHAT SIMILAR TO WHAT YOU HAVE  
9 BEFORE YOU IN THE STATUS REPORT.

10 BUT, THERE WAS NOT MEET AND CONFER ABOUT  
11 THAT SPECIFICALLY IN ADVANCE OF THE FILING.

12 THE COURT: OKAY. ALL RIGHT. UNDERSTOOD.

13 SO, LET'S TALK ABOUT -- LET'S TALK ABOUT  
14 HERE THEN.

15 WHEN -- YOU HAVE SORT OF AN IDEA OF WHEN  
16 PLAINTIFFS WILL BE READY TO FILE A MASTER COMPLAINT HERE?

17 ASSUMING THERE IS NO CONFER PROCESS WITH  
18 THE DEFENDANT; AND THEN WE'LL TALK ABOUT WHETHER THERE  
19 WILL BE ONE.

20 MR. VANZANDT: YOUR HONOR, WE HAVE DISCUSSED 60  
21 DAYS IN ORDER TO HAVE THE MASTER PLEADING FILED.

22 THE COURT: OKAY.

23 AND, THEN, DIFFERENT QUESTION. FROM THE  
24 TIME WHEN YOU AGREE ON A FORM, WHAT ARE YOU CALLING YOUR  
25 INDIVIDUAL JOINDER IN THAT CASE? WHAT ARE YOU CALLING  
26 IT?

27 MR. PANISH: I DON'T THINK IT'S ADDRESSED --

28 MR. KIESEL: SHORT FORM COMPLAINTS, YOUR HONOR.



1 THE COURT: SHORT FORM. OKAY. WE CAN CALL IT  
2 THAT TOO.

3 MR. VANZANDT: AND YOUR HONOR, WE ARE PLANNING TO  
4 AND HAVE DISCUSSED MEET AND CONFER WITH THE DEFENDANTS ON  
5 A SCHEDULE FOR THE MASTER COMPLAINT, THE SHORT FORM  
6 COMPLAINT, AND THEN A SCHEDULE RELATED TO THAT WE CAN  
7 SUBMIT TO YOUR HONOR --

8 THE COURT: FOR THIS CASE?

9 MR. VANZANDT: YES, YOUR HONOR.

10 THE COURT: AND YOU HAVE TALKED ABOUT THAT?

11 MR. VANZANDT: WE TALKED ABOUT CONFERRING --

12 THE COURT: OKAY. ALRIGHT.

13 I WANT TO ASK A DIFFERENT QUESTION, WHICH  
14 IS FROM THE TIME WHEN YOU HAVE AGREED FORMS HOW LONG,  
15 APPROXIMATELY, WOULD IT TAKE TO HAVE EACH PLAINTIFF -- OR  
16 IN EACH CASE TO FILE THE SHORT FORM COMPLAINT?

17 MR. VANZANDT: YOUR HONOR, WE THINK 30 DAYS WOULD  
18 BE REASONABLE FOR THAT IN ORDER TO GET --

19 THE COURT: YOU CAN GET THEM ALL DONE IN 30 DAYS?

20 MR. VANZANDT: I BELIEVE SO, YOUR HONOR. BASED ON  
21 THE NUMBER OF CASES THAT ARE FILED RIGHT NOW, WE COULD  
22 GET THOSE DONE IN 30 DAYS.

23 AND, OBVIOUSLY, OTHER PLAINTIFFS WILL FILE  
24 THEM AS THEY COME ALONG.

25 THE COURT: OKAY. OKAY.

26 SO, WHAT DO YOU -- WHAT DO YOU -- HOW DO  
27 YOU FEEL ABOUT SHOWING A DRAFT MASTER COMPLAINT TO  
28 DEFENDANTS BEFORE YOU SAY "THIS IS OUR MASTER COMPLAINT"?

1                   SHOWING TO THEM TO GET COMMENTS FROM THEM.  
2                   TO GET CONSTRUCTIVE COMMENTS.

3                   YES.

4                   MR. VANZANDT: WE FIGURE WE'LL GETS LOTS OF  
5                   COMMENTS FROM DEFENDANTS AT THE DEMURRER STAGE ABOUT OUR  
6                   COMPLAINT --

7                   THE COURT: BUT RATHER THAN HAVING 60 ISSUES, I'D  
8                   RATHER HAVE 55.

9                   MR. VANZANDT: YOUR HONOR, WE WOULD PROPOSE  
10                  THAT -- I DON'T THINK THAT WOULD BE NECESSARY HERE GIVEN  
11                  THAT THE MASTER COMPLAINT HERE WILL BE SUBSTANTIALLY  
12                  SIMILAR TO THE MASTER COMPLAINT THAT DEFENDANTS HAVE  
13                  ALREADY SEEN IN THE MDL.

14                  IT'S NOT GOING TO BE -- WE'RE OBVIOUSLY NOT  
15                  GOING TO REWRITE THE BOOK; IT'S GOING TO BE A VERY  
16                  SIMILAR COMPLAINT IN SUBSTANCE REGARDING THE ALLEGATIONS  
17                  AGAINST EACH DEFENDANT. CERTAINLY DON'T ENVISION ANY  
18                  MAJOR DIFFERENCES.

19                  OBVIOUSLY, THERE ARE SLIGHT DIFFERENCES IN  
20                  THE LEGAL ISSUES, CALIFORNIA LAW, AS OPPOSED TO THE MDL  
21                  WHICH CONSIDERS LAW FROM 50 STATES.

22                  THE COURT: SO, WHY ARE YOU CONFERRING ABOUT THE  
23                  FORMAT OF THE SHORT FORM COMPLAINT IF YOU DIDN'T CONFER  
24                  ABOUT THE FORMAT OF THE MASTER COMPLAINT?

25                  MR. VANZANDT: SO, THE FORMAT OF THE SHORT  
26                  FORM COMPLAINT --

27                  THE COURT: THIS IS TO ANYBODY.

28                  MR. VANZANDT: I'M SORRY.

1 IT'S MORE OF AN ADMINISTRATIVE PROCEDURE IN  
2 TERMS OF A COMPLAINT THAT ALL THE PARTIES CAN AGREE TO TO  
3 SERVE THAT ROLE IN ORDER FOR AN INDIVIDUAL PLAINTIFF TO  
4 SPECIFY THEIR CLAIMS AGAINST THE DEFENDANTS AS IT RELATES  
5 TO THE MASTER COMPLAINT. AND, SO, IT'S MORE -- IT'S MORE  
6 ADMINISTRATIVE. AND THERE IS -- IT'S IMPORTANT FOR THE  
7 PARTIES TO MEET AND CONFER ENOUGH TO BE A FORMAT THAT THE  
8 COURT AGREES ON AS WELL.

9 SO, THAT'S WHY I THINK IT'S IMPORTANT TO  
10 MEET AND CONFER ON THE SHORT FORM COMPLAINT, NOT SO MUCH  
11 THE MASTER COMPLAINT WHICH IS MORE THE FACTUAL  
12 ALLEGATIONS THAT THE PLAINTIFFS WILL BE LODGING AGAINST  
13 THE DEFENDANTS.

14 MS. HAZAM: YOUR HONOR, LEXI HAZAM FOR PLAINTIFFS.

15 I WOULD ECHO WHAT MR. VANZANDT SAID.

16 IN ADDITION, A SHORT FORM COMPLAINT  
17 REQUIRES AN IMPLEMENTATION ORDER ENTERED BY THE COURT.  
18 AND BECAUSE IT INVOLVES A PROPOSED ORDER THAT WOULD BE  
19 PRESENTED, THE PARTIES MEET AND CONFER ABOUT THE CONTENT  
20 OF IT, UNLIKE AN INITIAL COMPLAINT WHICH IN THE TYPICAL  
21 COURSE OF LITIGATION DOES NOT REQUIRE ANY FORM OF ORDER  
22 BY THE COURT IN ADVANCE OF ITS FILING.

23 THE COURT: OKAY. I SEE. I DON'T REQUIRE THAT.

24 IF WE AGREE WE'RE GOING TO DO SHORT FORM  
25 COMPLAINTS, IT CAN BE FILED AS A SHORT FORM COMPLAINT.  
26 AND EVERY CASE DOESN'T REQUIRE AN ORDER.

27 MR. SCHMIDT: YOUR HONOR, IF I MAY. PAUL SCHMIDT  
28 FOR META.

1                   ON THE MASTER COMPLIANT -- WE HAD OFFERED  
2 TO CONFER ON THE MASTER COMPLAINT IN THE MDL, AND  
3 PLAINTIFFS DECLINED FOR PROBABLY UNDERSTANDABLE REASONS  
4 FROM THEIR PERSPECTIVE.

5                   WE ARE OPEN TO CONFER ON IT.

6                   WHAT WE WOULD REALLY APPRECIATE ON IT,  
7 THOUGH, IS THERE ARE SUBSTANTIAL REDACTION ISSUES, AS I  
8 HAVE ALREADY ALLUDED TO, IN CONNECTION WITH THEIR  
9 COMPLAINTS. AND THAT'S GOING TO BE AN ONGOING ISSUE IN  
10 THE CASE.

11                   IF THEY CAN CONFER IN ADVANCE WITH US --  
12 REGARDING THE REDACTIONS ISSUES IN ADVANCE OF FILING  
13 THEIR COMPLAINT, THAT CAN MAKE A BIG DIFFERENCE JUST  
14 LOGISTICALLY IN TERMS OF HOW WE HANDLE THINGS AND NOT  
15 HAVE TO SCRAMBLE TO TRY TO FIX THINGS THAT MIGHT SLIP  
16 THROUGH OTHERWISE.

17                   ON THE SHORT FORM COMPLAINT, WE DO THINK IT  
18 IS ESSENTIAL TO CONFER ON THE SHORT FORM COMPLAINTS.

19                   SHORT FORM COMPLAINTS ARE, OF COURSE, AN  
20 EXCEPTION TO THE NORMAL PLEADING PROCESS, AND THEY END UP  
21 SERVING A REALLY IMPORTANT ROLE IN TERMS OF OUR ABILITY  
22 TO UNDERSTAND WHAT THE CASES ARE ABOUT, WHAT THE CLAIMS  
23 BEING ALLEGED ARE, WHAT SPECIFIC --

24                   THE COURT: I AM NOT UNFAMILIAR WITH SHORT FORM  
25 COMPLAINTS.

26                   MR. SCHMIDT: SO, I THINK WE'RE GOING TO HAVE A  
27 PRETTY VIGOROUS DISCUSSION ON THAT IN THE MDL, AND WE  
28 WELCOME THAT HERE AS WELL.

1 THE COURT: OKAY. SO --

2 DID YOU HAVE AN IDEA, MR. PANISH?

3 MR. PANISH: MR. CREED WAS TEXTING ME.

4 THE COURT: DID YOU HAVE AN IDEA, MR. CREED --

5 MR. PANISH: YES. YES, I DID.

6 WE'RE WILLING TO MEET AND CONFER ABOUT THE  
7 REDACTIONS. WE'RE ALSO OPEN TO MEET AND CONFERRING ABOUT  
8 THE SUBSTANCE OF THE COMPLAINT TO AVOID UNNECESSARY  
9 CHALLENGES TO THE PLEADING.

10 THE COURT: OKAY. SO, THAT IS, BASICALLY, THE WAY  
11 I'D LIKE YOU TO DO IT.

12 SO, WHEN PLAINTIFFS HAVE THEIR MASTER  
13 COMPLAINT READY, WHICH PROBABLY ALREADY DO -- AND, YOU  
14 KNOW, AGAIN, THIS IS IN THE CONTEXT OF IF THERE IS AN  
15 ISSUE THAT'S GOING TO CROP UP ON DEMURRER AND YOU KNOW  
16 WHAT IT IS -- COMMUNICATE IT TO THE PLAINTIFFS. IF THEY  
17 WANT TO PLEAD AROUND IT, YOU KNOW, I'M -- MAKES ME A  
18 HAPPY PERSON. WE KNOW THE BIG ISSUES ARE GOING TO BE  
19 THERE.

20 SO, I'M TRYING TO THINK WITH RESPECT TO  
21 REDACTIONS I'M GOING TO HAVE TO APPROVE THOSE UNDER  
22 OUR -- UNDER OUR RULES OF COURT.

23 SO, PROBABLY THE WAY IT WILL HAPPEN IS THAT  
24 PLAINTIFFS WILL FILE IT -- WILL FILE REDACTED FORM AND A  
25 FORM UNDER -- A REDACTED FORM AND AN UNREDACTED FORM  
26 UNDER SEAL, WHICH IS WHAT'S REQUIRED; AND THEN WITHIN TEN  
27 DAYS DEFENDANTS HAVE TO BRING A MOTION TO SAY WHY THOSE  
28 REDACTIONS ARE APPROPRIATE UNDER OUR RULES. OKAY?

1                   AND DEFENDANTS -- AND PLAINTIFFS CAN OPPOSE  
2     IT IF YOU WANT. I MEAN, IT'S A MOTION; RIGHT?

3                   SO, WE'LL PROBABLY NEED TO, YEAH, DO IT  
4     THAT WAY I THINK.

5                   OKAY. SO, I GUESS WHAT I WOULD LIKE IS FOR  
6     COUNSEL ON BOTH SIDES TO CONFER ON A SCHEDULE FOR  
7     ACCOMPLISHING THESE THINGS.

8                   JUST MAKE A NOTE HERE.

9                   I'M NOT SURE -- I'M NOT SURE I FEEL I NEED  
10    TO APPROVE THE FORMAT FOR THE SHORT FORM COMPLAINT. IF  
11    PLAINTIFFS -- I'LL JUST LEAVE THAT AS A QUESTION MARK.  
12    IF PLAINTIFFS KNOW WHAT THE DEFENDANTS' PROBLEMS ARE AND  
13    THEY WANT TO PROCEED OTHERWISE, I'M NOT SURE I NEED TO  
14    RESOLVE THAT.

15                  BUT, LET'S GO -- LET'S GO TO TALKING ABOUT  
16    THE MOTIONS ON THE -- LET'S GO TO TALKING ABOUT THE  
17    PLEADING MOTIONS, AND THEN MAYBE THAT WILL BE A LITTLE  
18    BIT CLEARER ABOUT WHAT I THINK -- WHERE I THINK WE SHOULD  
19    BE HEADED.

20                  LET ME JUST MAKE A NOTE BEFORE I FORGET A  
21    COUPLE THINGS.

22                  YOU KNOW -- AND IF YOU NEED ANY EXAMPLES  
23    OF, YOU KNOW, WHAT A SHORT FORM COMPLAINT WOULD LOOK  
24    LIKE -- YOU PROBABLY DON'T -- BUT, WHAT WAS USED IN THE  
25    TYNDALL CASE MIGHT BE USEFUL.

26                  SO, I TELL YOU WHAT THE TYNDALL CASE IS  
27    BECAUSE I'M GOING TO REFER TO IT LATER AGAIN.

28                  SO, I HAD A GROUP OF -- IT WAS NOT A

1 COORDINATED CASE. I HAD A GROUP OF ABOUT 780 PLAINTIFFS,  
2 WOMEN WHO ATTENDED UNIVERSITY OF SOUTHERN CALIFORNIA  
3 BETWEEN 1980 AND I THINK IT WAS 2015. THERE WAS A  
4 GYNECOLOGIST THERE WHO ALLEGEDLY WAS ABUSING AND SEXUALLY  
5 ASSAULTING THESE WOMEN. AND IT OCCURRED OVER DECADES.  
6 HENCE, 780 CASES.

7 THE -- SO, WE DID HAVE A MASTER COMPLAINT  
8 IN THAT CASE AND INDIVIDUAL ALLEGATIONS, WHICH,  
9 OBVIOUSLY, WERE VERY IMPORTANT IN THOSE CASES.

10 BUT, WE HAD ISSUES OF -- AROUND -- AROUND  
11 SEALING DOCUMENTS FOR PRIVACY, ET CETERA.

12 AND, AGAIN, I'LL BRING UP AN ISSUE A LITTLE  
13 BIT LATER ABOUT WHERE I THINK THAT CASE MIGHT BE  
14 INSTRUCTIVE.

15 SO, BEYOND THE PLEADINGS -- BEYOND THE  
16 COMPLAINTS, FOR THE PLEADING CHALLENGES I WOULD LIKE THE  
17 PLEADING CHALLENGES TO BE BASED ON A COMPLETE COMPLAINT.  
18 THE MASTER COMPLAINT PLUS A SHORT FORM COMPLAINT.

19 AND FOR THAT PURPOSE I WOULD SUGGEST THAT  
20 THE PLAINTIFFS PICK OUT ONE, TWO, OR THREE COMPLAINTS AND  
21 TELL DEFENDANTS "THESE WOULD BE THE COMPLETE COMPLAINTS  
22 THAT WE WOULD PROFFER FOR PURPOSES OF A CHALLENGE ON THE  
23 PLEADINGS."

24 BECAUSE THERE IS JUST TOO MANY ISSUES THAT  
25 COULD OVERLAP TO -- YOU KNOW, LATER ON WE'RE GOING TO  
26 HEAR ABOUT CAUSATION. BUT, CAUSATION RELATES TO, YOU  
27 KNOW, THE FIRST AMENDMENT. I CAN'T ENVISION HOW WE COULD  
28 GET CAUGHT UP ON IT, BUT I'M AFRAID WE WILL BE CAUGHT UP

1 WITH REPETITIVE ARGUMENTS IF WE DON'T TAKE ON A COMPLETE  
2 COMPLAINT.

3 FURTHER, I WOULD PROPOSE THAT WE DO THIS  
4 ONE TIME AND THAT WE HAVE ALL OF THE DEFENDANTS'  
5 ARGUMENTS IN THE DEMURRER OR MOTION TO STRIKE OR BOTH IF  
6 THERE IS A MOTION TO STRIKE.

7 AS TO THE DEFENDANTS' PLEADINGS, I DON'T  
8 WANT REPETITIVE PLEADINGS. YOU WOULDN'T BE SURPRISED AT  
9 THAT. SO, I WILL WANT YOU -- REQUIRE YOU TO ORGANIZE  
10 YOURSELVES SO THAT I GET ONE BRIEF THAT IS A TOTAL BRIEF  
11 ON EVERY PART OF THE DEMURRER -- YOU KNOW, EVERY ISSUE  
12 YOU'RE RAISING IN THE DEMURRER.

13 AND THEN IF A PARTICULAR DEFENDANT HAS A  
14 PARTICULAR ISSUE IN THE WAY THAT EVEN 230 PRESENTS  
15 ITSELF, I WOULD ACCEPT -- BUT, YOU KNOW, YOU'RE GOING TO  
16 HAVE TO BE JUDICIOUS HERE -- I WOULD ACCEPT A  
17 SUPPLEMENTAL BRIEF FROM A PARTY. OKAY?

18 BUT, I DON'T WANT TO HEAR -- I DON'T WANT  
19 TO HAVE MULTIPLE BRIEFS WHERE I HEAR ABOUT THE THREE  
20 ELEMENTS OF THE TEXT OF 2030(C)(1).

21 NO. NO. NO. NO. WE'RE NOT GOING TO TALK  
22 ABOUT THAT THREE TIMES.

23 BUT IF THERE IS A PARTICULAR MANIFESTATION  
24 OF A LEGAL ARGUMENT THAT APPLIES IN A DIFFERENT WAY TO A  
25 DEFENDANT, I AM OPEN -- OPEN TO SOME SUPPLEMENTATION.

26 FURTHER, WE'RE GOING TO HAVE TO FIGURE  
27 OUT -- IF THE PLAINTIFFS PICK THREE COMPLAINTS, THREE  
28 TOTAL COMPLAINT, WE'RE GOING TO HAVE TO FIGURE OUT



1 WHETHER THERE ARE ANY DIFFERENT ARGUMENTS THAT YOU HAVE  
2 WITH RESPECT TO ANY OF THOSE THREE. HOPEFULLY NOT. THAT  
3 WOULD BE GREAT IF THERE WERE NO DIFFERENT ARGUMENTS. BUT  
4 IF THERE ARE, YOU'RE GOING TO HAVE TO FIND A WAY TO  
5 PRESENT -- TO PRESENT THOSE.

6 I'M FIGURING WITH THREE WE CAN FIGURE OUT  
7 IF THERE IS A PROBLEM THAT'S GOING TO CUT ACROSS THE REST  
8 OF THE SHORT FORM COMPLAINTS. HOPEFULLY NOT. BUT, IF  
9 THERE ARE, HOPEFULLY WE'LL BE ABLE TO FIGURE THAT OUT.

10 OKAY. PROBLEMS WITH THAT GENERAL CONCEPT?

11 MR. CREED: YOUR HONOR, THIS IS JESSE CREED. A  
12 QUESTION ON THAT.

13 WE CAN TALK TO DEFENSE BEFORE WE DISCUSS IT  
14 HERE; BUT, IN TERMS OF PLAINTIFFS' OPPOSITION, WOULD YOU  
15 EXPECT US TO FILE A SINGLE OPPOSITION, OR WOULD YOU WANT  
16 IT TO CORRELATE TO EACH DEFENDANTS' BRIEF?

17 THE COURT: GOOD QUESTION.

18 I THINK IT SHOULD CORRELATE TO EACH BRIEF.  
19 I THINK THAT WILL BE EASIER. SO, YOU'LL HAVE SOME KIND  
20 OF MASTER OPPOSITION, AND THEN YOU'LL HAVE A SEPARATELY  
21 FILED OPPOSITION.

22 THAT WAY I CAN STACK THEM UP UNDERNEATH  
23 EACH OTHER AND FIND THE ARGUMENTS THAT PERTAIN TO EACH  
24 OTHER.

25 MR. SCHMIDT: THE ONLY THING ON THE DEFENSE SIDE,  
26 YOUR HONOR -- PAUL SCHMIDT AGAIN FOR META -- IS JUST IF  
27 WE COULD HAVE THE OPPORTUNITY -- WHEN THEY PICK THEIR  
28 THREE COMPLAINTS, IF WE HAVE CONCERNS ABOUT WHETHER THERE

1 IS SOMETHING REALLY UNUSUAL ABOUT THEM IN TERMS OF THE  
2 REPRESENTATIVENESS, TO COME BACK AT THAT POINT.

3 BUT, HOPEFULLY THAT WOULDN'T BE  
4 NECESSARY.

5 THE COURT: YOU KNOW, IF THEY'RE UNUSUAL AND  
6 THEY'RE UNUSUAL BAD, THEN THAT'S WHAT YOU WANT TO  
7 ADDRESS. RIGHT?

8 ONCE WE GET THROUGH THE PROCESS IF THERE  
9 ARE SOME OTHER ONES THAN ARE UNUSUAL THAT RAISE ISSUES WE  
10 DIDN'T CATCH IN THE FIRST ROUND, THEN WE'LL HAVE TO TALK  
11 ABOUT THAT.

12 SO -- AND DOES THREE SOUND RIGHT TO  
13 PLAINTIFFS?

14 I MEAN, THERE'S A LOT OF WAYS TO DO THIS.

15 MR. VANZANDT: YES, YOUR HONOR, WE'RE FINE WITH  
16 THAT ON THE PLAINTIFFS' SIDE.

17 THE COURT: NOW TIMING. SO, TIMING COULD BE  
18 TRICKY.

19 SO, I KNOW JUDGE GONZALES ROGERS HAS A  
20 SCHEDULE THAT STARTS APRIL 4. DID SHE ALTER THAT?

21 NO. OKAY. THAT STARTS APRIL 4.

22 BUT, AS I UNDERSTAND IT, SHE'S HOLDING BACK  
23 ON THE 230 ISSUE TO WAIT FOR THE SUPREME COURT IN  
24 GONZALES VERSUS GOOGLE.

25 SO, THE QUESTION THEN BECOMES WHETHER THERE  
26 IS SOME WAY IN WHICH WE WANT TO CATCH UP OUR BRIEFING  
27 WITH THE FEDERAL COURT.

28 JUDGE GONZALES ROGERS IS OPEN TO SITTING

1 TOGETHER, HERSELF AND MYSELF, TO HEAR THESE MOTIONS OR A  
2 MAYBE JUST TO HEAR THE SECTION 230 MOTION. I AM OPEN TO  
3 IT; BUT, I DON'T WANT TO FORCE IT ON PEOPLE.

4 SO, WHEN IT HAS BEEN DONE IN THE PAST IN  
5 MDL AND COORDINATED CASES, THE STATE AND FEDERAL JUDGES  
6 HAVE SAT IN ONE LOCATION, HAVE HEARD ARGUMENT FROM BOTH  
7 SIDES, AND THEN HAVE DECIDED INDEPENDENTLY.

8 SO, YOU DON'T GET SOME KIND OF EN BANC OF,  
9 YOU KNOW, STATE AND FEDERAL COURT JUDGES SHARING THEIR  
10 THINKING WITH EACH OTHER.

11 I HAVE SOME -- I WOULD LOVE TO SIT WITH  
12 JUDGE GONZALES ROGERS. I THINK SHE'S A WONDERFUL  
13 INTELLECT. AND LIKE ME, SHE WAS A STATE COURT JUDGE TOO.  
14 SO, SHE KNOWS A LOT ABOUT STATE COURT PROCEDURE.

15 BUT, WE HAVE TO BE REALISTIC THAT A  
16 CALIFORNIA DEMURRER IS NOT IQBAL AND TWOMLY. IT'S JUST  
17 NOT. IT'S DIFFERENT FROM MOTION TO DISMISS.

18 SO -- YOU KNOW. BUT, THAT MAYBE JUST SAYS  
19 THEY HAVE TO BE DECIDED INDIVIDUALLY.

20 BUT, YOU KNOW, THE STANDARDS MIGHT TURN OUT  
21 TO BE SORT OF DIFFERENT.

22 SO, I -- I'LL JUST THROW THAT OUT THERE FOR  
23 YOU.

24 AS I SAY, I WOULD LOVE TO SHARE IT WITH  
25 HER; BUT I'M NOT REALLY SURE IT MAKES SENSE HERE.

26 MR. VANZANDT: YOUR HONOR, THAT'S SOMETHING ON THE  
27 PLAINTIFFS' SIDE IF IT'S OKAY WITH YOU WE'D LIKE TO  
28 CONSIDER AND DISCUSS.

1 ONE INITIAL THOUGHT WOULD BE THE CHALLENGE  
2 WITH THE SCHEDULE GIVEN THAT THE MDL IS AHEAD AND THEY  
3 HAVE THE BRIEFING SCHEDULE IN PLACE.

4 AND I KNOW HERE THE PARTIES HAVE -- AT  
5 LEAST IN MEET AND CONFERS HAVE DISCUSSED AND AGREED UPON  
6 PROPOSING A SCHEDULE AND ORDER HERE THAT WOULD PUT THE  
7 DEMURRER BRIEFING AFTER THE GONZALES SUPREME COURT  
8 DECISION.

9 SO, THAT WOULD BE SOMETHING WE'D WANT TO  
10 CONSIDER.

11 THE COURT: I'D BE HAPPY TO GO BEFORE THE GONZALES  
12 SUPREME COURT DECISION, BY THE WAY; BUT I DON'T THINK  
13 ANYBODY IS ASKING ME TO DO THAT, SO, THAT'S OKAY.

14 MR. PANISH: THAT WOULD VIOLATE THE PREMISE OF  
15 JUDICIAL EFFICIENCY HERE IN --

16 THE COURT: DEPENDS ON IF THEY FOLLOW ME OR NOT.

17 MR. PANISH: I WOULD EXPECT THEM TO.

18 THE COURT: WELL, YOU DON'T KNOW IF YOU'D WANT  
19 THEM TO OR NOT.

20 IN ANY EVENT, THAT'S A BRIDGE TOO FAR, WE  
21 WON'T DO THAT.

22 SO, I'LL LET YOU ALL THINK ABOUT THAT.

23 BUT, THEN YOU HAVE TO THINK ABOUT, OKAY,  
24 ARE YOU GOING TO GET A FEDERAL COURT DECISION BEFORE YOU  
25 GET A STATE COURT DECISION SUCH THAT I'LL HAVE TO  
26 POTENTIALLY DISTINGUISH A FEDERAL COURT DECISION?

27 SO, IT'S OKAY. YOU KNOW, IT'S ALL GOOD.

28 BUT, I DON'T WANT TO FALL TOO FAR BEHIND

1 BECAUSE WE SHOULD KEEP OUR DISCOVERY -- EVERYBODY WANTS  
2 THE DISCOVERY TO BE CONSISTENT WITH IN MANY WAYS. RIGHT?

3 SO, I WILL LEAVE IT TO YOU THEN TO THINK  
4 ABOUT THE SCHEDULING. ALL RIGHT?

5 BUT, THAT'S THE FORMAT THAT I WOULD LIKE.

6 OKAY. LET ME TALK A LITTLE BIT ABOUT EARLY  
7 CASE VETTING, WHICH IS RAISED IN -- BY THE DEFENDANTS AT  
8 PAGES 17 TO 18 OF YOUR REPORT.

9 SO, I'M VERY FAMILIAR WITH THIS ISSUE. I  
10 SERVE ON THIS -- I'M THE ONLY STATE COURT JUDGE ON THE  
11 STANDING COMMITTEE ON FEDERAL RULES.

12 THAT COMMITTEE HAS BEEN CONSIDERING WHETHER  
13 THERE SHOULD BE SPECIFIC RULES FOR MDL PROCEEDINGS. AND  
14 ONE OF THE ISSUES HAS BEEN WHETHER THERE SHOULD BE SOME  
15 SORT OF RULE IN THE FEDERAL RULES ABOUT EARLY VETTING OF  
16 CASES AND SO FORTH. WHICH I'M NOT REVEALING ANYTHING  
17 THAT'S NOT IN THE PUBLIC -- IN THE PUBLIC AGENDAS. BUT,  
18 I THINK THEY HAVE DETERMINED NOT TO DO THAT ALTHOUGH  
19 MAYBE TO SAY THAT THERE SHOULD BE THE FOCUS EARLY ON OF  
20 GETTING BASIC INFORMATION ABOUT THE PLAINTIFFS' CASES.

21 THIS IS REALLY DIFFERENT FROM A  
22 PRESCRIPTION DRUG CASE IN TERMS OF, YOU KNOW, IF YOU  
23 THINK ABOUT THE SPECTRUM BETWEEN A MINI PLAINTIFF FACT  
24 SHEET EARLY ALL THE WAY TO SOMETHING LIKE A LONE PINE  
25 ORDER THAT DOESN'T REQUIRE A SPECIFIC -- A SPECIFIC  
26 DOCTOR OPINION TO A LONE PINE ORDER, WHICH I VIEW AS  
27 REQUIRING A DOCTOR'S OPINION. THIS IS REALLY DIFFERENT.

28 WHAT DO YOU ALL HAVE IN MIND?

1 MR. SCHMIDT: THIS IS PAUL SCHMIDT AGAIN FOR META.  
2 THIS IS SOMETHING WE ARE ACTIVELY  
3 CONFERRING ABOUT IN THE FEDERAL MDL.

4 ONE THING JUDGE GONZALES ROGERS HAS  
5 SUGGESTED THAT PROBABLY TRACKS MORE WITH THE FEDERAL MDL  
6 THAN WITH THE JCCP, ALTHOUGH IT COULD APPLY HERE, IS  
7 HAVING EVERY PLAINTIFF HAVE A CALIFORNIA BARRED LAWYER ON  
8 THEIR PLEADINGS SO THAT -- I DON'T WANT TO SPEAK FOR THE  
9 JUDGES -- SO THERE IS ACCOUNTABILITY IN TERMS OF PROPER  
10 DILIGENCES DONE AHEAD OF TIME.

11 FROM OUR PERSPECTIVE, I THINK YOUR HONOR'S  
12 STATEMENT ABOUT THIS BEING VERY DIFFERENT THAN THE KIND  
13 OF PHARMA JCCP'S A LOT OF US HAVE BEEN INVOLVED IN IS  
14 VERY APT.

15 AND ONE OF THE DIFFERENCES IS UBIQUITY OF  
16 SOCIAL MEDIA AND THE FACT THAT INJURIES HERE ARE VERY  
17 INTANGIBLE. SOME OF THEM AT LEAST. AND THAT GIVES RISE  
18 TO A POTENTIAL YOU ARE GOING TO HAVE VERY SERIOUS  
19 CLAIMS --

20 THE COURT: YOU DON'T NEED AN EXPERT FOR ANY OF  
21 THESE ISSUES --

22 MR. SCHMIDT: RIGHT.

23 BUT THEN YOU MIGHT HAVE CLAIMS THAT DON'T  
24 FIT WITHIN THE MDL WHERE THERE SHOULD BE SOME KIND OF  
25 MEANS TO DETERMINE WHAT THOSE ARE AND TAKE ACTION ON  
26 THOSE.

27 SO, WHAT WE HAVE BEEN LOOKING AT IN THE  
28 CONTEXT OF THE MDL, AND I WOULD URGE US TO LOOK AT HERE

1 AND WORK WITH THE PLAINTIFFS HERE, IS AN EARLY FACT SHEET  
2 PROCESS THAT GIVES US THEIR INFORMATION ABOUT WHAT'S  
3 BEING ALLEGED AND POSSIBLY CONSIDERING OTHER FILING  
4 REQUIREMENTS THAT WE'RE IN THE PROCESS OF TALKING WITH  
5 PLAINTIFF'S COUNSEL ABOUT IN THE MDL AND ARE GOING TO  
6 PRESENT TO JUDGE GONZALES ROGERS.

7 THEY WOULD INCLUDE THE CALIFORNIA ATTORNEY  
8 REQUIREMENT, BUT POTENTIALLY OTHER BASIC DILIGENCE  
9 REQUIREMENTS THAT ARE CONSISTENT WITH DILIGENCE THAT  
10 SHOULD BE DONE IN BRINGING ANY KIND OF CASE.

11 THE COURT: OKAY. I DON'T SEE ANYTHING EITHER  
12 THAT COULD BE DONE, FRANKLY, EARLY ON. THESE COMPLAINTS  
13 ARE MORE SPECIFIC THAN MOST OF THE COMPLAINTS I SEE. WAY  
14 MORE SPECIFIC. MOST OF THEM ARE WAY MORE SPECIFIC THAN  
15 THE COMPLAINTS I SEE.

16 SO, OKAY.

17 MR. SCHMIDT: YEAH, THE CONCERN WE HAVE IS WE'RE  
18 GOING TO GET A VERY SPECIFIC MASTER COMPLAINT -- AND  
19 THAT'S WHAT WE SEE IN THE MDL WITH ALL KINDS OF  
20 ALLEGATIONS AGAINST THE DEFENDANTS IN THE MASTER  
21 COMPLAINT.

22 AT LEAST THE SHORT FORM COMPLAINT WE HAVE  
23 RECEIVED SO FAR IN THE MDL IS PRETTY GENERAL WHERE IT'S  
24 HARD TO DRILL DOWN ON WHAT ARE THE SERIOUS CLAIMS, WHAT  
25 ARE THE DOCUMENTED CLAIMS, WHAT ARE THE CLAIMS THAT MIGHT  
26 NOT HAVE DOCUMENTATION.

27 AND WE SHARE THE CONCERN WE UNDERSTOOD  
28 JUDGE GONZALES ROGERS TO EXPRESS THAT THERE SHOULD BE

1 SOME WAY TO MAKE MAKE SURE WE'RE FOCUSING ON THE CASES WE  
2 SHOULD BE FOCUSING ON AND NOT SWEEPING IN A LOT OF OTHER  
3 CASES.

4 AND WE WILL CONTINUE CONFERRING WITH THE  
5 PLAINTIFFS ABOUT IT.

6 BUT, THAT'S REALLY OUR GOAL, IS TO GIVE THE  
7 COURT AND THE PARTIES A WAY TO ADDRESS THAT.

8 THE COURT: I'M NOT SEEING A NEED HERE FOR  
9 ANYTHING EXTRAORDINARY. SO, I'M OPEN TO LISTENING TO  
10 YOU.

11 AND WE'LL TALK ABOUT PLAINTIFF FACT SHEETS  
12 IN A MINUTE.

13 BUT --

14 MS. SCHMIDT: THANK YOU --

15 THE COURT: -- I'M NOT SEEING ANYTHING REQUIRING  
16 SOMETHING OTHER THAN, YOU KNOW, PLAINTIFF FACT SHEET  
17 PROCESS.

18 INJUNCTIVE RELIEF. I READ WHAT YOU SAID.  
19 ALL I'LL SAY IS THE EARLIER WE HAVE A PRELIMINARY REQUEST  
20 FOR INJUNCTIVE RELIEF THE BETTER.

21 OKAY. LET'S TALK ABOUT DISCOVERY.

22 SO, ALL OF THE DOCUMENTS IN DISCOVERY  
23 PRODUCED BY DEFENDANTS IN THE MDL SHOULD BE AVAILABLE TO  
24 THE PLAINTIFFS HERE. HOPEFULLY. AND THE PLAINTIFFS HERE  
25 WILL BE PRECLUDED FROM DUPLICATING DISCOVERY THAT'S DONE  
26 IN THE MDL.

27 I AM FINE WITH CONTINUING THE DISCOVERY  
28 STAY UNTIL THE PLEADING CHALLENGES ARE COMPLETED EXCEPT



1 AS TO WHAT JUDGE GONZALES ROGERS HAS ORDERED.

2 AND I'LL TAKE UP THE ISSUE OF DOCUMENT  
3 PRESERVATION SEPARATELY. THAT'S A DIFFERENT DISCUSSION.

4 LOOKING AHEAD, I WOULD EXPECT TO COORDINATE  
5 WITH JUDGE GONZALES ROGERS' ORDERS ON DISCOVERY, BUT  
6 OBVIOUSLY -- WELL, NOT OBVIOUSLY.

7 BUT, FROM THE WAY I AM LOOKING AT IT,  
8 DISCOVERY INVOLVING THE INDIVIDUAL PLAINTIFFS THAT ARE  
9 HERE IS A DIFFERENT ISSUE. AND I MIGHT COORDINATE THERE  
10 AS WELL. BUT, WE MIGHT ALSO GO A DIFFERENT DIRECTION.

11 BUT NOT INCLINED TO LOOK KINDLY ON  
12 DUPLICATIVE DISCOVERY FOR -- WITH RESPECT TO THE  
13 DEFENDANTS.

14 SO, THIS IS LOOKING AHEAD AND MAYBE TOO  
15 SOON TO TALK ABOUT IT, BUT YOU TALKED ABOUT IT AND I  
16 THINK IT'S GOOD TO GIVE YOU WHAT I THINK SHOULD BE THE  
17 PATH FORWARD.

18 SO, THE PLAINTIFF FACT SHEET PROCESS AND  
19 THIS DISAGREEMENT AS TO WHETHER THE DEFENDANTS SHOULD  
20 FIRST PRODUCE THE INFORMATION THAT THE DEFENDANTS HAVE  
21 WITH REGARD TO THE INDIVIDUAL PLAINTIFFS ACTIVITY ONLINE  
22 TO THE EXTENT THAT YOU HAVE IT, THIS IS WHERE THE TYNDALL  
23 CASE COMES BACK IN.

24 AND WHAT WE DID IN THE TYNDALL CASE WAS --  
25 THE WOMEN PLAINTIFFS IN THAT CASE OBVIOUSLY HAD MEDICAL  
26 RECORDS WITH USC. AND USC -- THEY WERE ENTITLED TO THOSE  
27 MEDICAL RECORDS; RIGHT? AND THAT -- I'LL JUST SAY THAT  
28 ENTITLEMENT, IN A SENSE, WAS STRONGER THAN THE

1 ENTITLEMENT HERE OF THESE PLAINTIFFS ABOUT THEMSELVES  
2 THAT THESE PLAINTIFFS HAVE VIS-A-VIS THESE DEFENDANTS.

3 NEVERTHELESS, BOTH SIDES AGREED, AND IT  
4 WORKED OUT EXTREMELY WELL, TO HAVE THOSE DOCUMENTS THAT  
5 SHOWED THE DOCTORS' VISITS, ET CETERA, THE MEDICAL  
6 RECORDS, PRODUCED TO THE PLAINTIFFS BEFORE THEY ANSWERED  
7 THE PLAINTIFF FACT SHEET.

8 AND THE REASON WAS BECAUSE IF YOU THINK OF,  
9 YOU KNOW, A COLLEGE STUDENT, AND NOW IT'S A NUMBER OF  
10 YEARS LATER, HOW MUCH ARE THEY GOING TO REMEMBER ABOUT,  
11 YOU KNOW, HOW MANY VISITS, WAS IT -- DID YOU GO TO  
12 ANOTHER DOCTOR; YOU KNOW, WHAT -- AND HOW MANY -- HOW  
13 MANY MONTHS APART, WHAT DID YOU CONSULT FOR? ALL THOSE  
14 THINGS LIKE THAT.

15 AND THE CONCERN WAS THAT IF YOU DO THE  
16 PLAINTIFF FACT SHEET PROCESS BASED STRICTLY ON MEMORY,  
17 PARTICULARLY AFTER A TIME PERIOD HAS PASSED -- AND I'M  
18 GOING TO SAY HERE PARTICULARLY IF YOU'RE TRYING TO ASK  
19 THE MINORS WHO ARE PLAINTIFFS OR DECEDENTS HERE ABOUT  
20 WHAT THEY REMEMBER, YOU'RE -- IT'S GOING TO BE MUCH MORE  
21 OF A GUESS, OF A BLANK SLATE BECAUSE YOU CAN'T RECALL  
22 SPECIFICALLY.

23 YOU CANNOT -- DEFENDANTS CANNOT AVOID THE  
24 FACT THAT AT SOME POINT THE -- I THINK YOU CAN'T AVOID  
25 THE FACT THAT AT SOME POINT THERE ARE RECORDS THAT YOU  
26 HAVE ABOUT THEIR ACTIVITY IS GOING TO BE PRODUCED TO  
27 THEM. AND WHEN THAT HAPPENS, THEIR RECOLLECTION IS GOING  
28 TO BE REFRESHED.

1                   AND, SO, THEN, THOSE PLAINTIFF -- IF YOU  
2                   HAVE GONE FIRST ROUND PLAINTIFF FACT SHEETS BEFORE THOSE  
3                   DOCUMENTS GET TO THEM, THOSE FIRST ROUND PLAINTIFF FACT  
4                   SHEETS ARE GOING TO BE KIND OF USELESS BECAUSE YOU WON'T  
5                   GET THEIR BEST TESTIMONY OF WHAT THEY RECALLED AFTER THEY  
6                   SAW THE DOCUMENTS.

7                   AND, SO, YEAH, ALMOST WOULD -- FOR THE  
8                   DEFENDANTS TO GET ANYTHING THAT WAS RELIABLE TO TAKE INTO  
9                   A DEPOSITION OR TO SUBSTITUTE FOR A DEPOSITION IF YOU'RE  
10                  NOT GOING TO DEPOSE EVERY SINGLE ONE OF THE PLAINTIFFS  
11                  ULTIMATELY, YOU GET -- YOU GET SOMETHING UNRELIABLE.

12                  SO, IT WORKED REALLY WELL IN THE TYNDALL  
13                  CASE.

14                  I WOULD ANTICIPATE THAT THERE WOULD BE THAT  
15                  PROBLEM HERE IN TERMS OF REFRESHED RECOLLECTION IF YOU  
16                  WILL. AND, SO, I THINK IT OUGHT TO BE CONSIDERED.

17                  I CAN UNDERSTAND WHY DEFENDANTS WOULD  
18                  OBJECT TO THIS.

19                  HERE'S WHAT I SUGGEST. I SUGGEST THAT WE  
20                  PLAN -- WE DON'T HAVE TO DO THIS NOW, RIGHT, BECAUSE  
21                  WE'RE NOT DOING DISCOVERY NOW.

22                  BUT, I'D SUGGEST AT AN APPROPRIATE MOMENT  
23                  WE PLAN TO HAVE SOME KIND OF A MOTION OR BRIEFING THAT I  
24                  CAN CONSIDER THIS MATTER IN DEPTH. BECAUSE IT'S AN  
25                  IMPORTANT ONE. AND THEN I'LL DECIDE.

26                  SO, WE WOULD LOOK AHEAD TO MAYBE -- IT'S  
27                  PROBABLY A MOTION TO COMPEL FOR THE PLAINTIFFS AND THEN  
28                  OPPOSITION. AND THEN I'LL DECIDE. BUT, I THINK IT'S --

1 I THINK IT'S A VERY INTERESTING QUESTION.

2 IS THAT ACCEPTABLE?

3 MR. PANISH: YES.

4 MR. SCHMIDT: YES, YOUR HONOR, WE'D BE -- PAUL  
5 SCHMIDT AGAIN FOR META.

6 WE ARE GRATEFUL FOR THE OPPORTUNITY FOR  
7 BRIEFING SEEING THE WISDOM OF THAT IN A CASE LIKE YOUR  
8 HONOR DESCRIBES.

9 WHAT'S DIFFERENT HERE IS, I THINK, TWO  
10 THINGS.

11 ONE, THE BURDEN IS VERY DIFFERENT IN TERMS  
12 OF THE VOLUME OF MATERIAL.

13 BUT, THE SECOND THING THAT'S VERY DIFFERENT  
14 IS BASIC ACCESS.

15 THERE IS SOME -- AT LEAST FOR NON-DECEDENT  
16 PLAINTIFFS, THERE IS SOME LEVEL OF ACCESS THE PLAINTIFFS  
17 HAVE TO THIS DATA THAT THEY CAN GET THEMSELVES, INCLUDING  
18 TOOLS WE PROVIDE FOR THEM TO BE ABLE TO ACCESS SOME OF  
19 THEIR OWN DATA.

20 AND WE WILL BE ABLE TO BRIEF THAT IN TERMS  
21 OF ADDRESSING WHAT WOULD BE A APPROPRIATE WAY TO SORT  
22 THROUGH THAT.

23 THE COURT: SO, HERE'S WHAT I WOULD SUGGEST THEN.

24 YOU HAD SUGGESTED GOING AHEAD AND STARING  
25 THE MEET AND CONFER ABOUT THE FORM OF PLAINTIFF FACT  
26 SHEETS. AND I WOULD AGREE WITH THAT. YOU HAVE GOT A LOT  
27 TO DO. BUT, I THINK IT MAKES SENSE TO START THAT  
28 PROCESS.

1 AS PART OF THAT -- SO, THIS WOULD BE ABOUT,  
2 YOU KNOW, WHAT THE QUESTIONS ARE GOING TO BE TO THE  
3 PLAINTIFFS, WHAT THEY ARE GOING TO RESPOND TO AND WHAT  
4 THAT FORMAT IS GOING TO LOOK LIKE AND WHAT'S THE SCOPE OF  
5 THE MEDICAL RECORDS AND ALL OF THOSE THING. OKAY?

6 AT THE SAME TIME AS YOU ARE TALKING ABOUT  
7 THAT, I WOULD SUGGEST THAT PLAINTIFFS PROVIDE TO  
8 DEFENDANTS A LIST OF WHAT YOU WOULD WANT TO BE PRODUCED  
9 ABOUT THE PLAINTIFFS' ACCOUNTS PRIOR TO THEIR FILLING OUT  
10 THE PLAINTIFF FACT SHEETS WITH THE IDEA IN MIND THAT IN A  
11 SENSE MAYBE THE MORE NARROW YOU MAKE THAT REQUEST,  
12 KNOWING THAT THIS ISN'T THE LAST REQUEST YOU CAN MAKE FOR  
13 INFORMATION, MAYBE YOU MAKE THAT A LITTLE NARROWER AT THE  
14 FIRST BITE AND IT BECOMES A LITTLE MORE REASONABLE.

15 I DON'T KNOW. I'M JUST SAYING.

16 BUT, I THINK START -- THAT DOESN'T REALLY  
17 BECOME A DISCUSSION BECAUSE DEFENDANTS AREN'T GOING TO  
18 AGREE TO PRODUCE ANYTHING, WE'RE GOING TO HAVE A MOTION  
19 ABOUT THAT.

20 BUT, WHEN I HEAR A MOTION, I'M GOING TO  
21 WANT TO KNOW WHAT YOU WANT TO HAVE PRODUCED, AND YOU  
22 MIGHT SHARE A DISCUSSION WITH THAT. OKAY?

23 SO, FOR THOSE OF YOU WHO HAVE NOT BEEN IN  
24 MY COURT BEFORE OR IN THE COMPLEX COURTS BEFORE, WE DO  
25 NOT HAVE SPECIAL MASTERS. SINCE THE YEAR 2000 WE HAVE  
26 MADE IT A POLICY NOT TO HAVE SPECIAL MASTERS.

27 I MEAN, I HAD ONE ONCE ON A -- ON A  
28 PRIVILEGE ISSUE THAT JUST REQUIRED A HUGE AMOUNT OF WORK.

1 BUT, I HAVE DONE A LOT OF PRIVILEGE ISSUES  
2 ON MY OWN TOO.

3 SO, YOU GET ME. YOU SEE ME? THIS IS WHAT  
4 YOU GET. OKAY.

5 AND I CLOSE -- I CLOSELY SUPERVISE  
6 DISCOVERY. IT'S -- AND WE'LL SEE HOW THINGS GO. BUT, IT  
7 MAY NOT -- IN MANY OF MY CASES WE DON'T JUST HAVE, OKAY,  
8 THE PLAINTIFFS WILL PROCEED OR -- LET'S PUT IT -- THE  
9 DEFENDANTS WILL PROCEED BY PROPOUNDING DISCOVERY TO THE  
10 PLAINTIFFS, AND THEN THE PLAINTIFFS WILL OBJECT, AND THEN  
11 WE'LL START WITH OUR MEET AND CONFER; SOMETIMES IT'S A  
12 NEGOTIATED PROCESS THAT IS SORT OF INDEPENDENT OF THE  
13 RULES OF CIVIL PROCEDURE IF YOU WILL.

14 BUT, WE'LL SEE, AS WE GO ALONG, WHAT MAKES  
15 SENSE.

16 BUT, YOU CAN SEE WE'RE ALREADY KIND OF  
17 SHAPING THE DISCOVERY INFORMALLY. OKAY?

18 AND, ULTIMATELY, DISCOVERY DISPUTES HAVE TO  
19 BE DISCUSSED -- ALL MOTIONS -- ACTUALLY, DISCOVERY  
20 MOTIONS AND ALL MOTIONS HAVE TO BE DISCUSSED WITH ME  
21 BEFORE THEY'RE BROUGHT. AND I WILL SEE IF I CAN -- I  
22 CALL IT TRY TO MEDIATE A SOLUTION TO THE PROBLEM. OKAY?

23 I WANT TO SAY A WORD ABOUT TRIAL SETTING TO  
24 GIVE YOU MY PERSPECTIVE. AND YOU MAY CONVINCE ME  
25 OTHERWISE. THIS IS JUST -- YOU NEEDN'T TALK ABOUT IT A  
26 LOT; BUT, THIS IS MY GOING-IN THINKING ABOUT THIS CASE.

27 AND -- BECAUSE I HAVE -- I HAVE DEALT WITH  
28 A LOT OF MASS LITIGATION. AND A LOT OF THEM WE HAVE KIND

1 OF GONE SLOW ON TRIAL SETTING SO THAT WE MAKE SURE THAT  
2 THE TABLE IS SET AND THAT WE HAVE, YOU KNOW, REALLY  
3 REPRESENTATIVE CASES AND SO FORTH.

4 I REALLY -- MY INITIAL INSTINCT IS I REALLY  
5 WANT TO GET TO TRIAL IN THESE CASES. AND I DON'T THINK  
6 THAT THE MATTERS HERE AT STAKE ARE GOING TO BE HELPED BY  
7 DELAY. AND I MIGHT PROPOSE LATER THAT COUNSEL THINK  
8 ABOUT A WAY OF SELECTING EARLY CASES EVEN BEFORE THE  
9 PLAINTIFF FACT SHEET PROCESS IS DONE.

10 I WOULD NEVER START A TRIAL BEFORE THE  
11 PLAINTIFF FACT SHEET PROCESS IS DONE BECAUSE THAT'S NOT  
12 SMART FOR A VARIETY OF REASONS HAVING TO DO WITH  
13 POTENTIAL CONSENTUAL AGREEMENT. BUT, I COULD SEE IN THIS  
14 CASE PICKING OUT CASES FOR DEVELOPMENT AND LINING THEM UP  
15 FOR TRIAL BEFORE THE PLAINTIFF FACT SHEETS ARE COMPLETE.

16 AND PART OF THAT IS BECAUSE WE HAVE SOME  
17 COMPLAINTS THAT ARE VERY DETAILED.

18 EVERYBODY IS SO QUITE ON THAT.

19 BUT, JUST -- JUST MY IDEA. I ALWAYS LISTEN  
20 TO EVERYBODY BEFORE WE DO ANYTHING. OKAY?

21 AND THEN I JUST WANT TO PUT A LITTLE  
22 FOOTNOTE HERE.

23 SOME OF THE -- SOME OF THE COMPLAINTS HAVE  
24 UCL CLAIMS AND INJUNCTIVE RELIEF. AND THOSE ARE TRIED TO  
25 THE COURT. SO, FOOTNOTE.

26 OKAY. LET'S TALK ABOUT PRESERVATION OF  
27 EVIDENCE A MINUTE.

28 SO, I DEFINITELY AGREE THAT THAT ISSUE

1 OUGHT TO BE DEALT WITH IN TANDEM WITH THE MDL.

2 I ALSO WOULD SAY, FOR WHAT IT'S WORTH, THAT  
3 I AGREE THAT IT MAKES VERY GOOD SENSE FOR EACH PLAINTIFF  
4 TO PRODUCE A -- WHAT YOU'RE CALLING A PROFILE FORM AS  
5 EARLY AS POSSIBLE BECAUSE THAT PUTS THE DEFENDANTS ON  
6 NOTICE AS TO WHOSE RECORDS ARE RELEVANT, TO THE EXTENT  
7 YOU ARE ABLE, AND OTHER INFORMATION THAT YOU HAVE AS TO  
8 RELEVANT ACCOUNTS THAT YOU CAN IDENTIFY.

9 SO, THAT MAKES A LOT OF SENSE TO ME.

10 I AM HAPPY TO HELP. BUT, IF YOU'RE MOVING  
11 ALONG ON THAT IN THE FEDERAL CASE AND IMPORT THAT HERE,  
12 JUST KEEP ME APPRISED OBVIOUSLY.

13 AND I DO THINK THIS IS SOMETHING THAT HAS  
14 TO BE HANDLED VERY EARLY IN THE LITIGATION.

15 SEEMS TO ME THAT THERE WOULD HAVE TO BE A  
16 PROTECTIVE ORDER IN PLACE BEFORE THE PLAINTIFFS ARE  
17 PROVIDING THESE PROFILE FORMS.

18 SO, THAT SUGGESTS THAT AS WE'RE DOING THE  
19 CRITICAL PATH TO THIS GET THAT PROTECTIVE ORDER DONE  
20 BECAUSE, YOU KNOW, THERE IS SOME OTHER THINGS THAT BEAR  
21 UPON IT.

22 I WAS -- NEW TO ME WAS THE DEFENDANTS'  
23 MENTION OF THIS 18 USC 22568 AND CHILD SEX ABUSE MATERIAL  
24 AND THE POTENTIAL NEED AFTER IDENTIFYING THE MATERIAL TO  
25 DESTROY IT WITHIN A PARTICULAR TIME.

26 I -- I WOULD RECOMMEND THAT PLAINTIFFS  
27 BRING A MOTION FOR AN ORDER FROM THIS COURT THAT SAYS IF  
28 MATERIAL IS RELEVANT TO LITIGATION YOU DON'T DESTROY IT.



1           THAT'S NOT THE FIRST TIME I HAVE SEEN ISSUE  
2     LIKE THAT. YOU HAVE STATUTES -- STATE STATUTES, FEDERAL  
3     STATUTES -- THAT SEEM TO SAY THAT, YOU KNOW, MATERIAL HAS  
4     TO BE KEPT CONFIDENTIAL AND CAN NEVER BE LET OUT AND SO  
5     FORTH AND SO ON. AND THEN WHEN YOU FIND OUT THAT IT'S  
6     RELEVANT TO LITIGATION AND HAS TO BE PRODUCED TO THE  
7     OTHER SIDE, YOU GOT TO MAKE AN EXCEPTION TO THAT. RIGHT?

8           SO, THIS SEEMS TO ME TO FALL IN THE SAME  
9     CONSENTUAL CATEGORY.

10           IF I WERE DEFENDANTS, I'D WANT AN ORDER.

11           SO, PLAINTIFFS, BRING A MOTION.

12           MR. VANZANDT: YOUR HONOR, JOSEPH VANZANDT FOR THE  
13     PLAINTIFFS.

14           I CERTAINLY DO NOT CONSIDER MYSELF A C-SAM  
15     EXPERT; I KNOW WE HAVE SOME ON OUR TEAM THAT ARE. AND I  
16     THINK OTHERS MAY HAVE DIFFERENT INTERPRETATIONS IN TERMS  
17     OF WHAT THOSE REQUIREMENTS ARE. SO, THAT'S SOMETHING  
18     WE'D LIKE TO MEET AND CONFER ON, CERTAINLY WOULD INTEND  
19     TO SUBMIT AN ORDER TO THE COURT ON THAT.

20           THE COURT: OKAY.

21           WELL, BUT I THINK IT OUGHT TO BE A -- I  
22     THINK IT OUGHT TO BE A MOTION.

23           WELL, IF DEFENDANTS ARE GOOD WITH A  
24     STIPULATED ORDER, THAT'S ABSOLUTELY GOOD WITH ME.

25           MR. VANZANDT: OR MOTION. I'M SORRY IF I SAID  
26     ORDER --

27           THE COURT: NO. BUT, IF DEFENDANTS FEEL LIKE YOU  
28     NEED TO SAY SOMETHING BEFORE YOU'RE ORDERED TO DO

1 SOMETHING, I GET THAT TOO. I TOTALLY GET THAT. SO --  
2 BUT, LET'S TAKE CARE OF THAT. I DON'T WANT ON MY WATCH  
3 STUFF BEING DESTROYED THAT'S RELEVANT TO LITIGATION. SO,  
4 GET ON WITH IT.

5 AND WHEN I SAY THAT, I MEAN I THINK WHERE  
6 WE'RE GOING TO BE HEADED WITH THIS -- AND YOU KNOW, MAYBE  
7 WE HAVE GOT NO MORE THAN A HALF-HOUR TO GO.

8 WHERE WE'RE GOING TO GO WITH ALL OF THIS IS  
9 WE'RE PROBABLY GOING TO RECONVENE PROBABLY NEXT WEEK WITH  
10 A PROPOSED ORDER OR WITH A -- WITH A SCHEDULED  
11 DISCUSSION. OKAY? WE'LL SEE. I'LL HEAR YOU ON WHAT YOU  
12 THINK WOULD BE THE BEST NEXT STEP TO KEEP US ORGANIZED.

13 ESI STIP. JUST GO AHEAD AND DO THAT IN  
14 CONJUNCTION WITH THE MDL. I'M NOT ESI GURU SO -- AS FAR  
15 AS THOSE THINGS ARE CONCERNED.

16 ONE OTHER NEW ISSUE. I WOULD LIKE TO  
17 SUGGEST THAT WE HAVE A SCIENCE DAY. AND THAT'S SOMETHING  
18 IF JUDGE GONZALES ROGERS IS INTERESTED IN HAVING --  
19 SPENDING TIME ON IT MIGHT BE SOMETHING THAT WE COULD DO  
20 TOGETHER.

21 AND THE SCIENCE DAY, TO ME, WOULD EXPLAIN  
22 FROM THE USER STANDPOINT HOW THE MEDIA APPS AT ISSUE  
23 WORK. LET ME TELL YOU WHY.

24 I AM A JUDGE. OUR RULES OF ETHICAL CONDUCT  
25 STRONGLY DISCOURAGE JUDGES FROM HAVING SOCIAL MEDIA. AND  
26 I HAVE NONE, ZERO, ZILCH. I HAVE MAYBE TWO TIMES SEEN A  
27 FACEBOOK PAGE. OKAY?

28 WHY DON'T I KNOW FROM MY CHILDREN?

1                   WHEN MY OLDER DAUGHTER -- MY DAUGHTERS ARE  
2 CLOSE IN TIME.

3                   WHEN MY OLDER DAUGHTER WAS COLLEGE SHE  
4 CALLED ME AND SAID, "YOU KNOW, THERE IS THIS NEW THING  
5 AND I DON'T KNOW WHETHER I SHOULD SIGN UP; IT'S THIS  
6 THING CALLED FACEBOOK, IT SEEMS LIKE IT WOULD BE PRETTY  
7 SAFE BECAUSE IT'S ONLY THE IVY LEAGUE SCHOOLS." OKAY.  
8 THAT'S HOW FAR BACK IT GOES. SO, I DIDN'T HAVE TO  
9 SUPERVISE MY CHILDREN BECAUSE THEY WERE OLD ENOUGH TO  
10 MISS THAT.

11                   SO, THAT DOESN'T MEAN I DON'T READ, YOU  
12 KNOW, THE WALL STREET JOURNAL AND THE ECONOMIST AND THE  
13 LA TIMES AND ALL OF THAT AND HAVE A CONCEPTUAL IDEA OF  
14 HOW THIS IS; BUT I THINK IT WOULD PROBABLY BE GOOD TO  
15 HAVE SOMETHING -- AGAIN, THIS IS NOT SOMETHING TO SAY HOW  
16 YOUR ALGORITHMS WORK, THIS IS TO SAY WHAT'S THE USER  
17 EXPERIENCE.

18                   MAYBE YOU WANT TO DO SOMETHING MORE THAN  
19 THAT. BUT AT LEAST THAT.

20                   I DON'T KNOW HOW HARD THAT WILL BE TO DO.  
21 YOU CAN KEEP SHOWING ME SCREENSHOTS AND I CAN READ.  
22 THAT'S NOT A PROBLEM.

23                   BUT, I'LL JUST SUGGEST THAT.

24                   COURT LEADERSHIP STRUCTURE.

25                   FIRST OF ALL, JUDGE -- I THINK JUDGE  
26 GONZALES ROGERS PUT --

27                   YES, GO AHEAD.

28                   MR. KIESEL: YOUR HONOR, PAUL KIESEL.

1                   WHEN WE GET TO THE LEADERSHIP ISSUE FOR  
2                   THIS COURT, I HAVE GOT SOME POINTS TO RAISE.

3                   BUT, I WILL LET THE COURT GO.

4                   THE COURT:    OKAY.

5                   FIRST I WANT TO ADDRESS DEFENDANTS.  I  
6                   UNDERSTAND FROM READING THEIR ORDERS JUDGE GONZALES  
7                   ROGERS HAD A LIAISON COUNSEL FROM THE DEFENSE SIDE.  THAT  
8                   SEEMS TO ME TO BE A GOOD IDEA.  SO, IF YOU COULD THINK  
9                   ABOUT THAT AND VOLUNTEER SOMEONE AND SIGN THEM UP TO DO  
10                  THAT.

11                  SO, THEY WOULD WORK WITH MISS MCCONNELL AND  
12                  MR. CREED THEN.

13                  IS THAT OKAY?

14                  MR. SCHMIDT:  YES, YOUR HONOR.

15                  THE COURT:  THAT'S SO IF THERE IS A QUESTION ABOUT  
16                  WHO'S TAKING THE LEAD ON, YOU KNOW, HOW MANY PAGES THERE  
17                  WILL BE IN A BRIEF OR WHATEVER THERE IS ONE PLACE EACH  
18                  SIDE CAN CALL.

19                  OKAY.  GO AHEAD, MR. KIESEL.  NOW I'M ABOUT  
20                  TO GET TO THE PLAINTIFFS SIDE, SO I TAKE IT THAT'S WHAT  
21                  YOU WANT TO TALK ABOUT.

22                  MR. KIESEL:  IT IS.  I'M GOING TO SHORT-CIRCUIT  
23                  THIS ISSUE FOR EVERYBODY.

24                  WE MET IN ADVANCE OF OUR HEARING TODAY, AND  
25                  I AM PLEASED TO TELL YOU WE HAVE REACHED AN AGREEMENT ON  
26                  LEADERSHIP STRUCTURE WHICH IS VERY SIMILAR TO WHAT THE  
27                  COURT HAS BEFORE IT.  WE'RE GOING TO PRESENT AN ORDER TO  
28                  THE COURT, HOPEFULLY IMPLEMENT THAT -- HOPEFULLY WITHIN

1 THE NEXT FEW DAYS. BUT, WE NEEDN'T DEAL WITH OUR  
2 LEADERSHIP ISSUES BEFORE THE COURT.

3 THE COURT: OKAY. ALRIGHT. THAT'S FINE.

4 FOR THOSE OF YOU WHO ARE -- AND THANK YOU  
5 FOR THAT. I REALLY SINCERELY THANK THE PLAINTIFFS' SIDE,  
6 MR. BERGMAN FOR WORKING ON THAT.

7 MR. BERGMAN: THANK YOU, YOUR HONOR.

8 THE COURT: FOR THOSE OF YOU WHO ARE MORE FAMILIAR  
9 WITH MDL'S, LET ME JUST GIVE YOU A LITTLE CONTEXT.

10 I PARTICULARLY -- AND WE IN THE COMPLEX  
11 COURTS TO SOME EXTENT -- I HAVE A STRONG PREFERENCE FOR  
12 COUNSEL TO ORGANIZE THEMSELVES. I -- IT'S A  
13 PHILOSOPHICAL THING WITH ME. THE INDIVIDUAL PLAINTIFFS  
14 PICK THEIR LAWYERS. THOSE LAWYERS SHOULD DECIDE HOW TO  
15 MAKE THE STRONGEST CASE FOR PLAINTIFFS. AND I DON'T  
16 THINK IT'S THE COURT'S JOB TO PICK QUALIFIED COUNSEL TO  
17 HELP THE PLAINTIFFS PREVAIL OVER THE DEFENDANTS.

18 SO, I AM -- I DON'T TRY TO DO SOME KIND  
19 OF -- YOU KNOW, WHAT'S A NICE WAY OF PUTTING IT -- A  
20 COMPETITION WHERE -- WHICH I KNOW THEY FEEL VERY STRONGLY  
21 ABOUT IN FEDERAL COURT ABOUT HAVING COMPETITION FOR  
22 PICKING WHO'S GOING TO BE THE LEAD AND ALL OF THAT. I  
23 WOULD ONLY EVER DO THAT IF I GOT TO A PLACE WHERE I  
24 COULDN'T MANAGE THE CASE BECAUSE THE LAWYERS WERE  
25 BURDENING THE COURT WITH DUPLICATIVE WORK.

26 SO, THAT'S WHERE MY HEAD IS AT ON THIS.

27 AND I HAVE SAID THAT. AND, ACTUALLY, I  
28 WAS -- I WON'T SAY WHERE I WAS.

1 BUT, I HAVE SAID THIS IN FRONT OF MULTIPLE  
2 MDL JUDGES, OKAY. AND I KNOW THEY DON'T AGREE, BUT, I  
3 FEEL STRONGLY ABOUT IT.

4 OKAY. LET ME SEE.

5 OKAY. NOW WE'RE DOWN TO NUTS AND BOLTS.  
6 GUARDIAN AD LITEMS.

7 JUST FILE THE USUAL GUARDIAN AD LITEMS, I  
8 THINK, AND I'LL PROCESS THEM.

9 MR. CREED: YOUR HONOR, THIS IS JESSE CREED.

10 FOR THE GUARDIAN AD LITEMS, WE FILE THEM  
11 AND YOU PROCESS THEM. ARE THEY GOING TO GO DIRECTLY TO  
12 YOUR COURTROOM, WHICH WOULD BE IDEAL BECAUSE, YOU KNOW, I  
13 KNOW THE -- THE COMPETENCE OF YOUR STAFF AND SUCH.

14 OR ARE THEY GOING TO BE HANDLED BY THE  
15 CLERK'S OFFICE? THERE'S A BACKLOG IN THE CLERK'S  
16 OFFICE.

17 THE COURT: I HAVE TO RULE ON THEM.

18 I'M ASKING MISS MIRO.

19  
20 (DISCUSSION BETWEEN THE COURT AND CLERICAL  
21 ASSISTANT.)  
22

23 THE COURT: WELL, EVERYTHING HAS TO BE E FILED.  
24 AND IT GOES THROUGH YOUR EFUS OR WHATEVER THE NAME IS FOR  
25 IT AND SO FORTH.

26 BUT, I HAVEN'T HAD TROUBLE GETTING GAL'S  
27 INTO MY WORK QUEUE. I HAVE HAD TROUBLE GETTING THEM OUT  
28 OF MY WORK QUEUE SOMETIMES IF THERE ARE HUNDREDS AND THEN

1 THE WORK CUE GOES LIKE THIS.

2 MR. CREED: WELL, THE CHALLENGE, YOUR HONOR, IS  
3 THE CASES, WHEN THEY ARE NEWLY FILED, AREN'T COORDINATED  
4 AT THAT POINT SO THEY END UP IN THE CLERK'S OFFICE AND WE  
5 THEN FILE A PETITION FOR COORDINATION. AND THE CLERK  
6 WON'T ISSUE A SUMMONS UNTIL THE GUARDIAN AD LITEM  
7 PETITION IS --

8 THE COURT: UNTIL THE G.A.L. IS SIGNED.

9 AND I HAVE ONE OR TWO SHOW UP THAT WAY.

10 SO -- BUT WHAT I DON'T UNDERSTAND -- I'LL  
11 TELL YOU WHAT, MR. CREED. WHY DON'T YOU CALL MISS MIRO  
12 AND I'LL GET INVOLVED AND SHE'LL CONVEY TO ME AND WE WILL  
13 SEE WHAT WE CAN WORK OUT. BECAUSE MANY OF THE CASES I  
14 HAVE HAD HAVE HAD PLEADINGS THAT REFER TO A GUARDIAN AD  
15 LITEM BUT HAVEN'T HAD -- BUT DON'T HAVE THE GUARDIAN AD  
16 LITEM APPROVED BEFORE THEY'RE FILED. AND THEY'RE FILED  
17 JUST FINE.

18 BUT, RECENTLY WE HAVE HAD A COUPLE GET  
19 BOUNCED BECAUSE THE G.A.L. WASN'T APPROVED BEFORE FILING.

20 SO, I DON'T KNOW HOW THAT'S HAPPENING.

21 MR. CREED: WELL, IT -- YEAH. I CAN CALL MISS  
22 MIRO, I CAN WORK WITH HER TO FIGURE OUT THE BEST WAY TO  
23 PROCESS THEM. BUT THE IDEA --

24 GO AHEAD, YOUR HONOR.

25 THE COURT: MAYBE IF YOU DON'T USE THE WORD  
26 "GUARDIAN AD LITEM" IN THE CAPTION AND INSTEAD SAY "ON  
27 BEHALF OF MINOR SO AND SO."

28 I DON'T KNOW.

1 MR. CREED: I THINK THAT'S WHAT WE DID IN THE GAS  
2 LEAK CASES; SO, WE CAN EXPLORE THAT OPTION.

3 THE COURT: WELL, THE GAS LEAK CASES THEY WERE  
4 FILED REALLY, REALLY LATE. SO, WE DON'T WANT TO DO THAT.

5 BUT, IN MY -- IN MY DEPARTMENT OF WATER AND  
6 POWER PUEBLO Y SALUD CASE, WHICH THE PARRIS FIRM IS  
7 TAKING THE LEAD ON, THEY GOT A COMPLAINT FILED WITH, I  
8 THINK, A THOUSAND PLAINTIFFS AND THEIR -- THEY'RE FILING  
9 THEIR GUARDIAN AD LITEMS AND GETTING THROUGH JUST FINE  
10 AND THEY DIDN'T HAVE TO HAVE THEM BEFORE THEY FILED.

11 MR. CREED: IN THE GAS LEAK WE DID APPOINT THE  
12 GUARDIAN AD LITEMS LATE. BUT, THE COMPLAINTS WE FILED  
13 FOLLOW THE FORMAT YOU'RE TALKING ABOUT. SO, MAYBE THAT'S  
14 THE WAY WE --

15 THE COURT: SO, IT -- "ON BEHALF OF" AND DOESN'T  
16 USE THE "AS GUARDIAN AD LITEM FOR." YEAH.

17 MR. CREED: YES --

18 THE COURT: AND I DON'T HAVE A PROBLEM WITH THAT  
19 AS LONG AS -- YOU KNOW, WE'LL PROMPTLY FOLLOW UP SO THAT  
20 WE WILL GET THEM ASSIGNED.

21 MR. CREED: YES. THAT SOUNDS LIKE A PLAN, YOUR  
22 HONOR.

23 THE COURT: OKAY. SO, IF YOU CAN GET THE  
24 COMPLAINT FILED, FILING THE GUARDIAN AD LITEM LATER THAT  
25 DOES GO DIRECT TO ME, AND WE'LL GET TO THEM AS BEST WE  
26 CAN.

27 PRO HAC VICES. I HAVE SO MANY OF THEM  
28 WAITING.



1 SO, IF WE COULD FIND A WAY TO STIPULATE  
2 THAT EVERYBODY IS WAIVING THE TIME TO OBJECT TO THEM --  
3 BECAUSE IT'S LIKE A 20-DAY WAITING PERIOD --

4 MR. PANISH: WE WOULD STIP FOR ALL THE DEFENDANT  
5 AND WE WOULD WAIVE THE TIME. THEY WOULD DO LIKEWISE I  
6 THINK.

7 MR. SCHMIDT: YES.

8 THE COURT: I WILL START PROCESSING THEM ON THAT  
9 ORAL STIPULATION. BUT, LET'S GET A WRITTEN STIP IN.

10 MR. PANISH: A WRITTEN STIP ON PRO HAC --

11 THE COURT: YEAH.

12 IT STILL MAY TAKE ME TIME, UNFORTUNATELY,  
13 BECAUSE I JUST GET BEHIND.

14 BUT, THAT WAY WE DON'T HAVE TO PUT IT IN A  
15 SEPARATE WAITING QUEUE FOR 20 DAYS.

16 OKAY. SO, MOVING FORWARD, I GOT YOU ALL IN  
17 HERE ON A FRIDAY AFTERNOON. I DON'T KNOW THAT THAT'S A  
18 CONVENIENT TIME FOR PEOPLE.

19 WHEN WOULD YOU LIKE TO HAVE STATUS  
20 CONFERENCES?

21 MR. PANISH: HOW OFTEN ARE YOU ANTICIPATING  
22 SCHEDULING THEM?

23 THE COURT: WELL, I'D LIKE TO GET -- PROBABLY  
24 ABOUT ONCE A MONTH. IN GENERAL. YEAH.

25 MR. PANISH: WELL, I WOULD SAY THAT WE'RE MORE  
26 OPEN.

27 BUT, THE PEOPLE THAT ARE TRAVELING -- I'M  
28 SURE DEFENSE WOULD HAVE PEOPLE TRAVELING -- FRIDAY AND

1 MONDAY MIGHT NOT BE THE BEST DAYS.

2 SO, MAYBE WEDNESDAY.

3 WE GOING TO DO THEM ALL AT 1:45?

4 THE COURT: YES. 1:45.

5 MR. PANISH: IF THIS WAS AGREEABLE WITH THEM, THE  
6 DEFENDANTS, WE COULD SAY WEDNESDAY AT 1:45.

7 THE COURT: OKAY. WE'LL TRY TO DO IT AT  
8 WEDNESDAYS.

9 BUT, I'LL NOTE TO AVOID MONDAYS AND  
10 FRIDAYS. I DIDN'T KNOW WHETHER THEY WANTED TO COME AND  
11 STAY OVER THE WEEKEND.

12 NOT THAT. OKAY. THAT'S FINE. THAT'S  
13 FINE.

14 SO, WHAT'S THE -- NOW WE NEED TO SET A NEXT  
15 DATE.

16 WHAT I WOULD LIKE TO HAVE ACTUALLY IS  
17 RATHER IS THAN TRYING TO PUT ALL OF THIS IN MINUTE ORDER,  
18 WHICH I COULD DRAFT UP -- AND MAYBE I SHOULD DRAFT UP.  
19 YOU TELL ME IF YOU'D PREFER -- YOU KNOW, I PROBABLY OUGHT  
20 TO JUST DO THAT, JUST DRAFT UP A MINUTE ORDER AND IT WILL  
21 HAVE EVERYTHING.

22 BUT, I DO NEED YOU TO CONFER, PARTICULARLY  
23 ABOUT THE TIMING OF THE PROGRESSION OF MASTER COMPLAINTS  
24 AND I STILL CALL THEM JOINDERS -- THE INDIVIDUAL  
25 COMPLAINTS AND THE MOTIONS AND THE HEARING, ET CETERA,  
26 LEADING UP TO THE DEMURRER. BRIEFING, ET CETERA. SO,  
27 YOU ALL NEED TO CONFER ON THAT.

28 AND I -- I'D LIKE TO GET THAT FROM YOU

1 PRETTY QUICKLY SO WE CAN --

2 MR. PANISH: SUBMIT A PROPOSED JOINT ORDER?

3 THE COURT: THAT WOULD BE FINE. ON THE TIMING.

4 AND IF YOU CAN'T AGREE, JUST GIVE ME YOUR  
5 ALTERNATIVES AND TELL ME WHETHER YOU'D LIKE TO HAVE PHONE  
6 CONVERSATION ABOUT IT AND WE CAN SET THAT UP.

7 ALL RIGHT. SO, I WILL PUT WHAT WE  
8 DETERMINED IN A MINUTE ORDER WHICH I WILL DRAFT. IF  
9 THERE IS ANYTHING WRONG IN IT, CONFER AND DO A POSTING ON  
10 THE MESSAGE BOARD AND LET ME KNOW.

11 OUR THINGS DON'T LOOK AS PRETTY AS FEDERAL.  
12 I'M SORRY. BUT, I HAVE ONE CLERK. THAT'S IT. PLUS YOU  
13 ALL.

14 SO, I'LL DO THAT.

15 AND IF -- IF PLAINTIFFS' LIAISON COUNSEL  
16 WILL GIVE NOTICE BY GETTING A COPY OF THE MINUTE ORDER,  
17 WHICH DOES NOT GO INTO CASEANYWHERE, YOU GOT TO GET IT  
18 OUT OF THE DOCKET, GET IT OUT OF THE DOCKET AND THEN  
19 SERVE IT. OKAY.

20 AND THEN YOU'LL FILE PROPOSED SCHEDULE BY  
21 WHEN? SCHEDULE ON --

22 MR. PANISH: THIS IS ON THE DEMURRER PROCESS?

23 THE COURT: ON THE MASTER COMPLAINT LEADING UP TO  
24 THE DEMURRER.

25 NEXT FRIDAY. OR IS THAT TOO SOON?

26 MR. KIESEL: MAYBE THE 10TH, YOUR HONOR, SO WE  
27 HAVE TWO WEEKS TO GET IT DONE.

28 THE COURT: OKAY. ALL RIGHT. MARCH 10. I'LL PUT

1 THAT IN THE MINUTE ORDER.

2 SO, OUR NEXT STATUS CONFERENCE THEN --  
3 DO YOU KNOW WHEN JUDGE GONZALES ROGERS IS  
4 HAVING ONE?

5 MS. HAZAM: YES, YOUR HONOR. MARCH 3. FRIDAY,  
6 MARCH 3.

7 THE COURT: WELL, ONE MONTH WOULD BE ABOUT  
8 MARCH -- MARCH 22, 1:45.

9 AND, THEN, PLEASE FILE A JOINT REPORT BY --  
10 CAN YOU DO IT BY THE 17TH?

11 MR. KIESEL: SURE.

12 THE COURT: GIVES ME OVER THE WEEKEND TO LOOK AT  
13 IT.

14 MR. SCHMIDT: YES, YOUR HONOR.

15 THE COURT: IF YOU RUN INTO PROBLEMS, DO A  
16 POSTING. AND I WILL LOOK FOR IT MIDDAY ON THE 20TH, BUT  
17 TRY FOR THE 17TH. OKAY?

18 ALL RIGHT. THANK YOU ALL. HAVE A VERY  
19 GOOD WEEKEND.

20  
21 (ENDING TIME: 3:15 P.M.)  
22  
23  
24  
25  
26  
27  
28

SOCIAL MEDIA CASES  
JCCP5255, 02/17/2023

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MOTION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT 12

COORDINATION PROCEEDINGS )  
SPECIAL TITLE (RULE 3.550) )JCCP NO. 5255  
SOCIAL MEDIA CASES )REPORTER'S  
\_\_\_\_\_)CERTIFICATE

I, GAIL PEEPLES, PRO TEMPORE COURT REPORTER OF  
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF  
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 1  
THROUGH 53, INCLUSIVE, COMPRISE A FULL, TRUE, AND CORRECT  
TRANSCRIPT OF THE PROCEEDINGS HELD IN DEPARTMENT 12 ON  
FEBRUARY 17, 2023, IN THE MATTER OF THE ABOVE-ENTITLED  
CAUSE.

DATED THIS 19TH DAY OF FEBRUARY, 2023.

  
\_\_\_\_\_  
GAIL PEEPLES, CSR NO. 11458  
PRO TEMPORE REPORTER

SOCIAL MEDIA CASES  
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